

**CITY OF LAKE FOREST
COMMENTS ON COUNTY OF ORANGE
DRAFT ENVIRONMENTAL IMPACT REPORT 564**

October 7, 1996

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October 7, 1996

Mayor
Richard T. Dixon

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BY HAND DELIVERY

Paul Lanning
Project Manager
County of Orange
Environmental & Project Planning
300 North Flower Street, Room 321
Santa Ana, California 92702

Re: Comments on Draft EIR 564

Dear Mr. Lanning:

Enclosed with this letter are the City of Lake Forest's comments on Draft Environmental Impact Report 564 for the so-called expansion of the Musick Jail Facility.

1 The City has put considerable time and energy into the preparation of these comments because the proposed project is of tremendous concern to our City and because we believe that the Draft EIR is a seriously flawed document that requires extensive reworking and recirculation. As is explained in our comments, we believe that DEIR 564 is deficient in every principal respect and fails to describe the proposed project properly. It understates the environmental impacts that will be caused by the project and it fails to identify and adequately analyze feasible alternatives to the project. The document has all of the markings of a sales brochure intended only in justifying the proposed project instead of providing a neutral and comprehensive analysis of the environmental consequences of the proposal.



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We appreciate the opportunity to present these comments on behalf of the City of Lake Forest. We also hope that the County will take the time to correct the serious defects in Draft EIR 564 and to recirculate a corrected, accurate document, so that we can all avoid the expense and delay that would occur if the City is forced to seek a judicial determination of the adequacy of the County's environmental review of this proposed project.

Very truly yours,

CITY OF LAKE FOREST



Richard T. Dixon
Mayor

c: Robert C. Dunek
Christopher G. Caldwell

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I. INTRODUCTION

The following comments on Draft Environmental Impact Report 564 (the "DEIR") are submitted on behalf of the City of Lake Forest. These comments have been developed by the professional staff of the City of Lake Forest, environmental consultants at Willdan Associates, and the City's special CEQA counsel, the law firm of Hedges & Caldwell.

3 DEIR 564 concludes that construction of the largest correctional facility in the State of California would have absolutely no environmental impacts on the area surrounding the proposed jail, including residences located only 700 feet away. The DEIR also concludes that construction of this behemoth megajail — which would cost in excess of \$1 billion, would be the most expensive public works project in the history of the County, and would be built on one of the most valuable parcels of County-owned property — is the cheapest alternative available to the County today.

4 Simple common sense teaches that neither of these conclusions is accurate, and the City's painstaking page-by-page analysis of DEIR 564 demonstrates that the entirety of the DEIR's environmental analysis is a biased, results-driven whitewash that was prepared with only one goal in mind: state whatever is necessary to avoid having to admit the simple truth that construction of this megajail will have serious negative impacts.

5 In order to justify the conclusions stated in DEIR 564, the drafter of the document has had to ignore consistent decisions made by the County over the last ten years concerning the the Musick site. Although the County now claims that housing over 7,500 minimum, medium, and maximum security inmates at Musick will have no

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impacts whatsoever, just ten years ago the County stated in its Musick Master Plan EIR that all of the impacts from putting a medium-maximum security jail at Musick would be negative and "[i]n particular, the surrounding residents would be subjected to greater risks associated with potential escapes." See Exhibit "DD."¹ At that time, the County's environmental analysis concluded that "[t]here are no foreseen positive effects related to this alternative." *Id.* For the next ten years — until only about six months ago — all of the County's planning for the Musick site was consistent: sell the valuable land and use the money to build a jail elsewhere, on cheaper property that is further away from existing residential and commercial development.

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The truth of the conclusions in the County's 1986 Musick EIR remains unchanged today, and DEIR 564 manages to avoid acknowledging these facts only by presenting a completely distorted "revisionist history" of the County's past jail construction efforts and an equally distorted analysis of the consequences of putting 7,500 inmates only 700 feet from existing homes. DEIR 564's analysis is based upon such simple and obvious errors as failing to perform any on-site survey of existing biological conditions at the Musick facility (even though the County was specifically requested to do so by the California Department of Fish and Game and any student of CEQA knows that such a survey is the starting point of any environmental analysis) and

¹ All references to Exhibits "A" through "QQ" refer to the Exhibits to the City of Lake Forest Comments on County of Orange Draft Environmental Impact Report 564 submitted herewith and made a part hereof by reference herein.

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understating future traffic and air quality impacts by relying on the completely ludicrous assumption that there will be no future development at the adjacent El Toro MCAS (even though the County is now in the midst of planning a commercial airport there).

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Most incredibly, DEIR 564 repeats every single error identified by the Orange County Superior Court when it invalidated the County's EIR for a proposed Katella-Douglass jail in 1988. In direct violation of the Court's decision in that case, DEIR 564: (1) analyzes the capacity of the proposed jail at "rated" capacity, rather than the "crowded" capacity that is the operational norm for every correctional facility in California; (2) fails to include a meaningful site-specific analysis of the socioeconomic impacts of the proposed jail that is based upon interviews of surrounding property owners; (3) analyzes cumulative impacts of the jail solely on the basis of committed development in the vicinity, instead of all foreseeable development (e.g., the commercial reuse of El Toro MCAS); and (4) inadequately analyzes alternatives to the project, and impermissibly rejects alternatives because of unsubstantiated and erroneous assumptions. Indeed, not only does DEIR 564 repeat all of these errors, but DEIR 564 actually "incorporates by reference" the entirety of the Katella-Douglass EIR that was invalidated by the Superior Court!

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The simple truth is that DEIR 564 is grossly inadequate. It was prepared at a breakneck speed in an effort to push through this project before the public could fully understand the magnitude and folly of the proposed megajail, even though the County has nowhere near the funds necessary to build or operate the proposed project. In doing so, the County has ignored one of the lessons that it supposedly learned from its previous jail-siting debacles. Just two years ago, an October 1994 CAO report stated:

"Based on experience with the Gypsum Canyon plan, it does not appear to be financially prudent to develop a site specific long-term plan until a funding source is identified. When funding becomes available, the amount of funding could have a significant impact on the type, size, and location of the project." See Exhibit "S" at 7.

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The importance of this message should be even clearer now that it was two years ago, as the County continues to struggle with a vise-grip financial situation. There is no reason to believe that the County will have enough money to build a \$1 billion dollar jail at any time before the environmental analysis in DEIR 564 is outdated. To the extent that the County receives any jail construction funds from the State, those funds should go first to completing the already-approved Theo Lacy expansion (before the EIR for that project grows stale, thereby exposing the County to a new lawsuit on that project).

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And contrary to what is suggested in DEIR 564, when funds do become available, the County's bankruptcy does not limit the County's ability to consider sites other than Musick. Under the bankruptcy plan, the County has the freedom to build on other County-owned sites or to sell the Musick site and substitute other County-owned property as collateral in the recovery plan. Indeed, in these tight financial times, it is all the more important to take maximum advantage of the Musick site's value as an asset, instead of irretrievably committing that asset to use as a jail.

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For all of these reasons, as well as the many other issues identified in the following pages, it is painfully evident that DEIR 564 is an inadequate document under CEQA. It examines a project that the County cannot afford to build or operate. If the Board of Supervisors certifies DEIR 564 in its present form, the County will commit itself

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to spend money, but on lawyers' bills instead of jail beds. For recent history teaches what happens when the County attempts to make a hasty decision to build a jail at an inappropriate location: lawsuits follow, huge amounts of taxpayer dollars are spent on legal fees, and ultimately the County is forced to go back to the drawing board and prepare an EIR that accurately discloses the full negative effects of jail construction. The City of Lake Forest urges the County to avoid making that mistake again. Instead, the County should postpone further consideration of DEIR 564 until the County can undertake jail planning with a specific funding source in hand. At that time, the County should prepare and circulate an EIR that fully explores all alternatives available to the County, and accurately identifies the environmental impacts of each of those alternatives. DEIR 564 does not do so.

II. INADEQUATE TIME HAS BEEN ALLOWED FOR OBJECTIVE REVIEW

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DEIR 564 addresses the construction of a jail facility that would be the largest correctional facility in the state of California. With a price tag in excess of \$1 billion, this "megajail" would be the largest public works project in the history of the County of Orange. Nevertheless, from start to finish, the planning and environmental review process for this proposed megajail has been pushed through at breakneck speed, with the County seeking to certify a Final Environmental Impact Report concerning the proposed project only about seven months after the project was first discussed at a Sheriff's Department "initiation and coordination meeting." See Exhibit "J."

12

Many of the deficiencies in DEIR 564 can be attributed to the rushed time frame in which the document was prepared. Presumably, if there had been adequate time, glaring gaps in the DEIR would have been caught before it was sent to publication, such as the DEIR's failure to include a biological assessment of the project site (as requested by the California Department of Fish and Game), and a micro-scale analysis would have been conducted of the carbon monoxide impacts of the project (which the DEIR states is contained in the document, but actually is absent). Not surprisingly, these and other defects were not identified by County staff during their review of the internal "screen check" draft EIR, because County staff were given less than one and one-half days for internal review of the screen check document before final publication of the DEIR. See Exhibit "NN."

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Even though the DEIR is certain to generate voluminous public comment, given the intense interest in the project, the County also has allowed itself inadequate time to analyze and respond to those comments. The County Planning Commission is

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scheduled to consider DEIR 564 on October 15, 1996 – only eight days after public comments are due. The City submits that it will be impossible for all of the public comments to be analyzed and meaningful responses prepared in this short time period, let alone allow members of the County Planning Commission to absorb all of this information. The Board of Supervisors is scheduled to review the issues and vote on certification just three weeks later, on November 5, 1996.

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The County's determination to push through this project at all costs, regardless of the views of the public, is further evidenced by the County's refusal to extend the 45-day comment period on the project, despite the City's notification to the County that additional time was necessary to ensure full public review. See Exhibts "EE" and "FF." Perhaps not surprisingly, the only matter on which the County has not acted hastily is responding to a Public Records Act request by the City of Lake Forest, in which the City sought access to County documents concerning the proposed project. Having refused the City's request for an extension of the comment period, the County failed to provide the City with a complete response to the Public Records Act request within the public comment period. See Exhibit "GG." As of the time that these comments are being submitted, the City understands that it has received only a partial response from the County to its Public Records Act request and, in particular, responsive documents from the Board of Supervisors have not been provided. The City's request that the deadline for its comments be extended until all documents had been provided by the County was rejected. Because the County has refused to provide documents in the time frames mandated by the Public Records Act, the City expressly reserves the right to provide

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supplemental comments in the future, as well as to supplement the Administrative Record as appropriate.

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In sum, the County has allowed inadequate time for a full and fair review of the DEIR by its Planning Commission and Board of Supervisors and also has denied the City time and documents necessary to prepare full and complete comments on DEIR 564.

III. SUMMARY OF DEFICIENCIES

As explained more fully in the following chapters, the DEIR and the procedures followed by the County in pursuing the proposed project are grossly inadequate. Fatal flaws include:

1 Inaccurate Project Description

1.1 Failure to Include the 39 Acres Recommended For Conveyance in the El Toro Reuse Plan

Two parcels that the El Toro Reuse Plan recommend for conveyance to the County of Orange Sheriff-Coroner for Musick expansion have not been included as part of the project description. The two parcels include a 27 acre parcel located north of Alton Parkway and a 13 acre parcel located north east of the existing Musick facility, directly adjacent to NCCP land. (See parcels #10 on Figure 3-5 of the Reuse Plan).

Given the failure to include the parcels, the DEIR impermissibly piecemeals the project, understates the potential for future expansion of the Musick facility, and fails to consider potential significant impacts related to use of the parcel.

1.2 Failure to Include Extension of Alton Parkway in the Project Description and Analysis

The main access for all inmate buses, visitors, and staff is via the Alton Parkway access. This access requires the extension of Alton Parkway. The proposed project is thus dependent on the extension which is a necessary part of the project. Since the extension is integral to the project, it must be analyzed in the EIR. Failure to analyze the extension constitutes improper piecemealing of the project.

1.3 Failure to Account for Reasonably Foreseeable Future Phases of the Project

Overcrowding in correctional facilities is epidemic throughout the Nation. By analyzing the project based on rated beds, the County has failed to account for reasonably foreseeable future expansion of the facility. At a minimum, the facility should be analyzed at the court mandated maximum crowding level of 130 percent of rated beds. See *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California*, 47 Cal.3d 376 (1988).

1.4 Failure to List the Expected Uses of the EIR

In accordance with Section 15124 of the CEQA Guidelines, the project description should include a list of the agencies that are expected to use the EIR in their decision-making and a list of the approvals for which the EIR will be used.

2 Failure to Address/Adequately Address Potentially Significant Impacts

The DEIR fails to adequately analyze potentially significant project impacts associated with:

- *Storage of fill*
- *Export of soils*
- *Air quality impacts on sensitive receptors and micro-scale CO impacts*
- *Noise, including project and cumulative increases in noise levels, potential violations of noise land use compatibility standards, and exposure of additional persons to unacceptable noise levels*

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- *Project and cumulative impacts on biological resources on the existing site, the 39 acres of conveyance, the Alton Parkway site, and impacts resulting from construction of drainage for the project*
- *Land use compatibility impacts associated with the ICF and the project's incompatibility with intensity limitations for Irvine Planning Area 35.*
- *Impacts to prisoner, staff and public safety due to: insufficient staffing; crime associated with released prisoners and visitors; crime due to changes in the nature of the surrounding community resulting from location of a large medium and maximum security jail; escapes, including the indirect effects on the police forces of adjacent jurisdictions; the ICF and the location of the ICF in proximity to the jail; parking for the facility; and the location of the jail adjacent to the airport*
- *Construction traffic, emergency access, freeway, and public transportation impacts*
- *Impacts to fire and law enforcement services*
- *Impacts to public parks*
- *Socioeconomic impacts*
- *Hazardous materials impacts associated with: agricultural contamination, subsurface contamination, future use of contaminants on the site, exposure to contaminated groundwater, PCB's, radon and lead*

3 Failure to Identify Significant Project Impacts

The DEIR fails to identify the following significant project impacts:

- *Loss of prime farmland*
- *Air quality impacts on sensitive receptors and micro-scale CO impacts*
- *Noise impacts including construction noise impacts, potential violations of land use compatibility standards, and impacts associated with the introduction of new/expanded uses in areas with unacceptable noise levels*
- *Aesthetic impacts associated with the height of the project buildings*
- *Project and cumulative impacts on biological resources on the existing site, the 39 acres of conveyance, the Alton Parkway site, and impacts resulting from construction of drainage for the project. These include cumulative and project impacts to: sensitive, rare and endangered plant and animal species; habitat; the NCCP; wetlands impacts; and other applicable biological resources*
- *Additional Intersection Impacts*
- *Impacts associated with mitigation, such as those resulting from the taking of right-of-way or construction of the Borrego Wash stormdrain*
- *Land use compatibility impacts associated with the ICF and the project's incompatibility with intensity limitations for Irvine Planning Area 35.*
- *Impacts to prisoner, staff and public safety due to: insufficient staffing; crime associated with released prisoners and visitors; crime due to changes in the nature of the surrounding community resulting from location of a large medium and maximum security jail; escapes, including the indirect effects on the police forces*

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of adjacent jurisdictions; the ICF and the location of the ICF in proximity to the jail; parking for the facility; and the location of the jail adjacent to the airport.

- *Short-term construction traffic impacts and impacts on public transportation*
- Impacts to fire and law enforcement services*
- *Socioeconomic impacts*
- *Hazardous materials impacts associated with: agricultural contamination, subsurface contamination, future use of contaminants on the site, exposure to contaminated groundwater, PCB's, radon and lead.*

4 **Failure to Identify Significant Unmitigated Impacts**

The DEIR fails to identify the following significant unmitigated impacts:

- *Loss of prime farmland (project and cumulative)*
- *PM10, NOx and micro-scale CO impacts*
- *Cumulative impacts on ability to meet air quality standards compliance deadlines*
- *Project and cumulative impacts on biological resources on the 39 conveyance acres, the Alton Parkway site, and impacts resulting from construction of drainage for the project.*
- *Noise impacts, including a noticeable increase in noise due to cumulative development, potential violations of noise land use compatibility standards due to the project and cumulative development, and introduction of new uses (ICF and farm workers) in areas with unacceptable noise levels due to the project (ICF and farm workers) and cumulative development*
- *Cumulative traffic impacts*
- *Impacts created by traffic mitigation measures*

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- *Parking impacts occurring because of inadequate on-site parking*
- *Land use compatibility impacts associated with the ICF and the project's incompatibility with intensity limitations for Irvine Planning Area 35.*
- *Impacts to prisoner, staff and public safety due to: insufficient staffing; crime associated with released prisoners and visitors; crime due to changes in the nature of the surrounding community resulting from location of a large medium and maximum security jail; escapes, including the indirect effects on the police forces of adjacent jurisdictions; the ICF and the location of the ICF in proximity to the jail; parking for the facility; and location of the jail adjacent to the airport*
- *Impacts to fire and law enforcement services*
- *Public park impacts*
- *Socioeconomic impacts, including deterioration of surrounding land uses*
- *Hazardous materials impacts associated with: agricultural contamination, and subsurface contamination*

5 **Inadequate Cumulative Impacts Analysis**

5.1 Failure to Provide Analysis of Cumulative Impacts

The DEIR fails entirely to comply with CEQA Guideline section 15130, which requires, *inter alia*, a summary and analysis of cumulative impacts. Instead, the DEIR apparently suggests that the reader should construct such analysis from the information in the DEIR. Additionally, the DEIR concludes that the noise, air, traffic and agricultural cumulative impacts of the megajail are not significant because they are relatively small in comparison to the impacts of El Toro reuse. The cumulative impacts analysis is intended to address the *collective* significance of project impacts, and hence the relative

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insignificance of the megajail impacts compared to other projects is entirely irrelevant to the cumulative impacts analysis. Finally, the DEIR's reliance on analysis in the El Toro Reuse EIR is entirely misplaced given the deficiencies in that document.

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5.2 Failure to Consider Reuse of El Toro and Irvine Planning Area 30 in the Analysis

The Traffic Impact Analysis and the other analyses in the DEIR unreasonably assume selection of the No-Project Alternative for El Toro, under which 1994 levels of use will continue. The DEIR analyses also fail to consider the City of Irvine's plans for Irvine Planning Area 30 in its impacts analyses. The DEIR analyses thus understate cumulative impacts.

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6 Inadequate Analysis of Project Alternatives

The DEIR contains no systematic analysis of project alternatives that would disclose the environmental effects of various alternatives available to the County. Instead, the County seeks to avoid its obligation to analyze alternatives by relying on several excuses, none of which is accurate. For example, the County claims that its bankruptcy constrains its ability to consider alternative sites. In fact, the bankruptcy documents allow the County to develop any properties it owns currently or to sell existing properties and use the funds to purchase simultaneously other properties that are equally valuable. In other words, the County could sell the Musick site and use the funds to buy another site elsewhere. The DEIR also claims that fiscal considerations make other alternatives infeasible. This excuse is unsupported in the DEIR, because the document contains no analysis or estimate of the cost of the proposed Musick facility. Sheriff Department documents have estimated the cost of a similar facility to be

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in excess of \$1 billion; if this is the cost, then the proposed Musick facility clearly is infeasible and other, lower-cost alternatives must be considered by the County. Finally, the County frequently excuses its failure to consider alternative sites by timing considerations. Given that the DEIR suggests that the Musick facility will not be built until 2001— and there is no reason that significant funding for any construction will be available anytime soon — the County cannot rely on supposed timing considerations to justify its elimination of project alternatives. A comprehensive review of all possible alternatives must be included in the DEIR, including a site-specific analysis of the environmental impacts of each alternative, and specific factual information must be included in the record to justify the rejection of any alternatives.

26

Even the DEIR's cursory, inadequate review of alternatives identifies several options that would be environmentally superior to the proposed project. Each of these environmentally superior alternatives must be expressly identified and should be designated as preferred alternatives: Management Systems Alternative (Alt. 7.3); Reduce the Size of Musick Project to Serve South County Residents (Alt. 7.6); the Grand Jury Report Alternative (Alt. 7.7); Limited Expansion of Musick Alternative (Alt. 7.8); Limit Inmate Classifications Alternative (Alt. 7.10); Release of Inmates at IRC Alternative (Alt. 7.11); the Santa Ana Main Jail Expansion Alternative (not separately analyzed in the DEIR); and half-width Alton Parkway Alternative (not analyzed in the DEIR).

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The DEIR's Alternatives analysis is also inadequate because it contains no analysis whatsoever of alternative sites for the proposed Interim Care Facility ("ICF").

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Recirculation of DEIR is Required

Given the quantity and magnitude of the deficiencies in DEIR 564, preparation and recirculation of a revised, corrected document is required by CEQA Guidelines Section 15088.5.

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Failure to Refer Project to the Airport Land Use Commission

Given the size and nature of the proposed construction, it should be referred to the Orange County Airport Land Use Commission for review. Such a referral should be made because a rezoning of the site should occur to enable construction of the proposed project. If the proposed project is built, it is no longer possible to claim that the jail is a non-conforming "agricultural" use. If there is a rezoning, then referral to the ALUC is mandatory. Even without a rezoning, a referral is required because a compatibility plan has not yet been adopted for the proposed commercial reuse of El Toro MCAS.

IV. CHAPTER-BY-CHAPTER ANALYSIS

Title Page

30 It is inappropriate and misleading to refer to the project as the expansion of Musick Jail. Demolishing an honor camp and replacing it with a maximum security jail that would be the largest correctional facility in the State of California (see Exhibit "KK") is hardly an "expansion." Indeed, the County has previously acknowledged in its 1986 EIR on a Master Plan for the Musick site that the addition of maximum security beds at Musick involves far more than simply an "expansion" of the minimum security facility, explaining: "The design of a medium-maximum jail facility would be entirely different from that of a minimum security facility. The building design, security measures and staffing are also completely different from that presently in use or proposed for the Musick property."

Exhibit "DD" at p. 6-35.

Chapter 1 - Introduction

31 Page 1. The DEIR indicates that the document has been prepared at the grading, construction and operation level of detail, but fails to either include or reference the grading or construction plans for the readers' review.

32 Page 2. The DEIR should provide as an appendix a list of the issues which have been previously settled or determined and thus are not being revisited in the DEIR. For each issue, the DEIR should list the both the reference documents providing the determination as well as the supporting documentation.

33 Pages 3-5. This biased, self-serving section of DEIR 564 that purports to explain why Musick Jail is being considered for this expansion is completely inaccurate and disingenuous. Contrary to what is suggested in the DEIR, demolition of the existing

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Musick facilities and their replacement by a 9,000-bed maximum security megajail has never been considered by the County as an option prior to promulgation of this EIR.

Instead, the history of the County's actions shows a lengthy, consistent course of conduct that called for the County to sell the Musick site and use the funds to purchase a new site elsewhere for prison construction.

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A complete and accurate historical presentation concerning this issue would begin with the County's 1986 Musick Master Plan EIR, which expressly and pointedly rejected any consideration of placing medium or maximum security beds at the Musick site. That document noted that the impacts from a maximum security jail would be negative with regard to all environmental impacts discussed in the EIR, with the greatest impact relating "to public health and safety issues." Exhibit "DD" at 6-35. "In particular, the surrounding residents would be subjected to greater risks associated with potential escapes." *Id.* In rejecting that alternative, the DEIR directly stated: "There are no foreseen positive effects related to this alternative." *Id.* at 6-36.

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The following year, in August 1987, when the Board of Supervisors selected the Gypsum Canyon site, the Board stated its commitment to relocating the Musick facility to the new remote site. Exhibit "Y" at 5. Both of the jail-related EIRs prepared by the County in 1989 reaffirmed the County's commitment to move the Musick facility to the new, remote site. The September 1989 revised subsequent EIR 499 for the Theo Lacy expansion explained that factors which "mitigate against the expansion" of Musick include: (1) the noise impacts caused by the Musick facility's proximity to El Toro MCAS, (2) the loss of prime agricultural land that would be caused by an expansion of Musick, (3) the close proximity of Musick to existing single family residential areas, (4) traffic problems

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in the vicinity of Musick, and (5) aircraft crash hazards associated with the Musick site.

See Exhibit "AA" at 4-7.

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The County's 1989 Subsequent EIR for the Gypsum Canyon Jail also adopted the option of selling the Musick site so that it could be developed in a manner compatible to the surrounding area, noting that "a likely land use replacement for the Musick site would be a business/industrial park." Exhibit "CC" at 4-83 to 4-84. In October 1991, when the Board of Supervisors decided not to proceed with the Gypsum Canyon site because of financial considerations, the Board expressly left in place its August 1987 resolution calling for the relocation of the James A. Musick facility to the long-term jail site. See Exhibit "Y" at 5 and 10.

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As DEIR 564 notes, in January 1992, the Board received a report on Short-Term Solutions to Jail Overcrowding. Contrary to the distorted summary of this document in DEIR 564, the January 1992 report did not even discuss expansion of the Musick site to house maximum security inmates, and to the extent that any kind of expansion of Musick was considered in that report, the option was rejected. See Exhibit "P." It is ludicrous for DEIR 564 to suggest that a document considering – and then *rejecting* – an expansion of the Musick site can now be treated as long-term planning to expand Musick.

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In a similarly ridiculous maneuver, at page 4, DEIR 564 quotes from a citizen letter opposing any consideration by the Board of expanding the Musick facility because the citizen was concerned about the need to protect the community and businesses adjacent to the Musick site. The DEIR treats that citizen's concern that the Board ever might consider such a bone-headed proposal as intelligent, long-term planning for expansion of Musick. This revisionist history is stark evidence of the bias of the preparer of the DEIR,

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who obviously had a close relationship with the Sheriff's Department and had no interest in preparing a disinterested, analytical environmental review document. See, e.g., Exhibit "O" (facsimile transmittal from preparer of DEIR 564 to Orange County Sheriff, which ridicules citizens and County officials who are concerned about the impacts of jail construction).

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After the 1992 Short-Term Solutions Report, the County continued its long-established tradition of considering the Musick site as a valuable asset to be sold, rather than as a potential site for a huge maximum security jail. Thus, in October 1994, the County Administrative Office provided a report to the Board of Supervisors indicating the County would continue to consider the sale and exchange of County properties to obtain land or cash, and noted that the sale of the purported Musick site has been considered as a means of raising about \$30 million. See Exhibit "S" at 8. This report preceded by one month the November 1994 Grand Jury Report about new maximum security jail sites, which was, in truth, the very first County-generated document to ever recommend placing maximum security beds at Musick – albeit in a facility less than half the size of the project proposed in DEIR 564. See Exhibit "T." Even after that Grand Jury Report, the Sheriff Department's El Toro MCAS Reuse Project Proposal suggested selling the Musick facility for an estimated \$24-\$31 million and using the proceeds from the sale for the construction of new facilities. See Exhibit "V." As recently as August 1995, in the CEQA Statement of Findings and Facts adopted by the Board of Supervisors for the Theo Lacy buildout and operation, the Board of Supervisors reiterated that: "It is also noteworthy that the Musick facility land is quite valuable, both from an industrial perspective and a possible residential perspective, depending on the ultimate use of the Marine Corp. Air

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Station – El Toro. In the past, the County has examined trading this site for other sites which would be preferred for a jail." Exhibit "Z" at 6-7.

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The distorted "historical" discussion contained at pages 3-5 also neglects to disclose that the County's consideration of a megajail at the Musick site represents abandonment of a long-expressed intention by the Board of Supervisors to conduct a long-term jail study before designating a new site. Five years ago, on October 1, 1991, the Board recognized the importance of long-term planning and adopted a resolution directing the County Administrative Office to complete a comprehensive financial plan *prior* to the development of any long-term alternatives and to postpone Board consideration of any long-term alternatives to relieve jail overcrowding until after Board approval of the financial plan. See Exhibit "N."

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Such a long-term plan was never prepared or considered by the Board. The absence of this plan was expressly discussed at the "Initiation and Coordination Meeting" for DEIR 564. The agenda for that meeting states that the absence of a long-term jail solutions report "can be anticipated as a critical issue for this project." Exhibit "J" at 4. In a consistent vein, a report prepared by the County Administrative Office just two years ago also stated that "it does not appear to be financially prudent to develop a site specific long-term plan until a funding source is identified. When funding becomes available, the amount of funding could have a significant impact on the type, size, and location of the project." Exhibit "S" at 7. DEIR 564 fails to disclose that the County has nevertheless chosen this "imprudent" course of action, in direct contradiction of the County's own prior planning and directives. Instead, DEIR 564 falsely attempts to dress up the County's

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(cont'd)

consistent and repeated decision not to expand the Musick site as an historical study of this option.

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For these reasons, the entire discussion at pages 3-5 of the DEIR should be deleted. Instead, an accurate description of the County's consistent refusal to consider the Musick site for jail expansion should be presented, including the information set forth above.

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This history should include the rated beds and population by year, for each year of the facility's existence. It should also provide a similar history of expansion for the other facilities in the County. This information will demonstrate the unreasonableness of the assumption that the facility will be operated at rated bed capacity and that the proposed size of the facility will not be altered within the interim (5-7 years) or long term (year 2020) timeframes (as defined in the Traffic Report).

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Page 9. The DEIR improperly incorporates other documents by reference. CEQA Guidelines section 15150 provide that when incorporating by reference, a DEIR must provide a summary of the incorporated information and/or describe any information which cannot be summarized. In all cases the relationship between the incorporated part of the referenced document and the EIR must be described. The courts repeatedly have invalidated secret documents that failed to follow these simple rules. See *Emmington v. Solano County Redevelopment Agency*, 195 Cal.App.3d 491, 502 (1987) ("an interested citizen is faced with laboriously sorting through over 2,000 pages of raw data and then drawing his own conclusions about information is pertinent to this project's likely effect on the environment"); *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 311 (1988) ("CEQA places the burden of environmental investigation on government rather than the

public"). Here, EIR 564 does not simply incorporate 2,000 pages of other documents, but seeks to incorporate by reference tens of thousands of pages of other EIRs.

The CEQA Guidelines also provide that incorporation by reference is most appropriate for including long, descriptive or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand. Information which is important to the analysis should not be dealt with through incorporation by reference. The DEIR's use of incorporation by reference clearly conflicts with Guideline section 15150, and the relevant caselaw.

Of particular concern, the DEIR improperly incorporates information from EIR 447 by reference. As a general matter, this EIR is of little relevance to the analysis at hand, as the information in the EIR is approximately a decade old and analyzes a different jail project on the proposed site. Similarly, the DEIR's incorporation of EIRs concerning the Gypsum Canyon, Theo Lacy, and Katella-Douglass jail projects is inappropriate. In each instance, the EIRs analyze different jail projects on different sites, and those EIRs are as much as 15 years old. The Katella-Douglass Jail EIR, EIR 464, was specifically invalidated in litigation (Exhibit "HH"), and the County never appealed that decision or corrected the deficiencies in the EIR. Accordingly, all of these incorporations by reference are inappropriate. Moreover, contrary to the assertion in the Notice of Availability for DEIR 564, not all of the "incorporated" documents were provided to and on file at the City of Lake Forest – further evidencing the impossibility of meaningfully reviewing the massive "incorporated" documents.

Chapter 2 - Executive Summary

Pages 13 - 15. The Summary Table reflects the inaccuracies and omissions contained in the remainder of the DEIR. The table will need to be redone to reflect the changes made to the DEIR in response to comments.

47 Pursuant to Section 15123 of the CEQA Guidelines, the Summary Table should identify each significant effect and the proposed mitigation measures for each effect. Since many people will only read the summary, general statements about impacts should be avoided in the Summary Table; the Table should instead be as specific as possible. The mitigation measures for each specific impact should be identified. The mitigation measures themselves, rather than the numbers for the mitigations should be provided in the table, so that the reader can judge the level of effort required for mitigation, the linkage between impacts and mitigations, and the degree to which the specified measures will mitigate impacts. Notably, deficiencies in the Summary Table were one of the grounds on which EIR 464 was invalidated (see Exhibit "HH" at 7), and this table is even more misleading.

Chapter 3 - History and Background

48 **Pages 16-20.** For the reasons discussed above with regard to the text of DEIR 564 at pages 3-5, this statement of history and background is biased and incomplete. All of the information discussed above should be included in this section. In particular, DEIR 564 needs to disclose that no prior environmental review documents have ever recommended the placement of maximum security beds at the Musick facility. Similarly, the DEIR must disclose that the County has not completed a long-term jail solutions report, which would contain detailed information concerning correctional facility

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populations for future projection years, even though the Board of Supervisors directed the preparation of such a report in 1991 (Exhibit "N") and a planning document for this EIR identified the need for this report as a "critical issue" for this project (Exhibit "J" at 4).

Similarly, an agenda prepared by the Drafter of DEIR 564 for an April 1996 meeting with the County CEO also listed as "suggested topics" a need for "precise number of inmates by classification." Exhibit "K" at 2. Nevertheless, this critical, foundational information is not presented in the DEIR

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In the absence of such a report, additional information on the planning documents discussed here must be provided to allow the reader a basis to assess the accuracy of corrections needs assessments, and hence the potential for future expansion pressure on the Musick facility. This information should include an accurate, current assessment of the projected correctional facility need, by year and by type, (i.e., maximum, minimum, etc.). The table should also list the actual and eligible correctional facility populations for each projection year. (Eligible populations include those persons who would be housed if correctional facility space was available, but who have been treated in some other way, such as through cite and release programs.)

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Page 22. In order to allow the reader to judge whether the maximum capacity for the Musick facility as specified in the DEIR is reasonable and accurate, the DEIR must explain the holding in *Stewart v. Gates*, including the court's discussion of overcrowding and crowding standards. The DEIR also should reveal and discuss the decision of the Orange County Superior Court in the EIR 464 litigation, which expressly rejected reliance on rated capacity as an accurate measure of jail project capacity for purposes of CEQA analysis. See Exhibit "HH" at 4.

51 Page 23. The DEIR should provide early release information for the entire year of 1995. This information should include the number of criminals released early in 1995, the percentage of those early releasees who were arrested on new charges during the time they would have been in jail, and the number of these new crimes that occurred within 2, 5, and 10 miles of the correctional facility in which the releasees were housed and of the release facility. Similar information should also be provided for cite and release offenders.

52 Page 24. While the current Musick project provides for minimum, medium and maximum security prisoners, the discussion indicates that the number of higher security inmates is increasing over time. The DEIR should contain a discussion of how the distribution of inmates by security type is likely to change over the life of the proposed facility, and an analysis of the potential environmental impacts associated with the reasonably foreseeable change in inmate composition over time. (For example, a reduction in minimum security prisoners could lead to phase-out of agricultural production at the facility.) This analysis should also address the potential need for additional medical facilities and medical beds at the facility, as the inmate population becomes higher security and more violent.

53 Table 4. The DEIR fails to explain what is meant by "Unadjusted" in Table 4.

54 Page 25. The DEIR should provide a map showing the location of existing detention facilities.

55 Table 6. The DEIR should clarify what is meant by "Orange County Sheriff (unincorporated)" and "Countywide agencies - miscellaneous." According to Table 6, these categories represent 43 percent of bookings within five miles of Musick and 48 percent of bookings within 10 miles. If these categories in fact capture bookings other

55 than those within five and 10 miles of Musick, the discussion on page 27 is incorrect, and needs to be amended.

56 Page 27-28. While the DEIR asserts that the jail expansion is situated appropriately for serving the population of inmates from whom the population desires protection, data elsewhere in the DEIR contradicts this assertion. Although approximately 25 percent of the bookings countywide were from within a 10-mile radius of the proposed facility, and within the South Court jurisdiction, the DEIR indicates that the proposed Musick facility would house appropriately 70 percent of the County's projected inmate population (from Table 2). Similarly, although only 30 percent of the County's population lives in the South County area, the facility will house over 70 percent of the County's inmates. In addition, the scale of the proposed facility is significantly larger than other County facilities. The DEIR narrative should be amended to reflect these facts, thus providing a complete and accurate discussion of the appropriateness of the proposed jail siting.

57 The DEIR should also provide a map showing the density of bookings by census track or zip code. This will enable the reader to judge the appropriate location for a jail facility, in light of the County's stated belief that it is appropriate to locate facilities in proximity to where the booked inmate population originates.

58 To further aid the reader in evaluating the appropriateness of the location of the Musick facility (as well as evaluating the appropriateness of trip distribution in the transportation section), the DEIR should provide a map showing the location of the municipal and superior courts in Orange County in relation to the existing and proposed

58 correctional facilities. It should also indicate the number and percent of bookings tried at each of the courts.

59 Because the DEIR relies upon the supposed "need" for a jail in the South County area as a means of justifying the proposed project, the DEIR should disclose the percentage of arrestees who are South County residents, as opposed to inmates who were simply arrested in the South County area. The preparer of the DEIR acknowledged that this was an issue during the preparation stage, see Exhibit "I," but this information nevertheless is not disclosed in the DEIR. Without this additional information, the statistics at page 27 are incomplete and misleading.

Chapter 4 - Project Description

60 Page 29. The Orange County Sheriff's Department has applied for conveyance of 39 acres of the El Toro Facility to be used by the Musick facility. The conveyance request has been recommended as part of the El Toro Reuse Plan. It is reasonably foreseeable that use of the 39 acres will constitute part of the project, and hence the two sites which make up the 39 acres should be included in the project description. It is noteworthy that the request and recommendation as to the 39 acres were made before the DEIR for Musick was published, yet the conveyance was not included in the project description.

61 The Orange County Sheriff-Coroner's Notice of Interest Application For Property And/Or Buildings at MCAS, El Toro (Exhibit "Q") clarifies the Department's intention that this 39 acres be used for agricultural purposes in the short-term, and for potential expansion of the jail facilities in the long-term. (Although Exhibit "Q" refers to a "79-acre" parcel, the last page of this exhibit explains that this was an error and that Exhibit "Q" relates to the 39-acre sites in DEIR 564.) The report notes that the property is requested

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for "future expansion of the James A. Musick Branch Jail (*id.* at 2), explaining later in the document that, "This property would be used for future expansion. It will most likely be used initially for growing field crops" (*Id.*, at 4). The document later elaborates on the need to obtain the land for future jail expansion:

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"Our need to expand our jail system has been constant since 1889 and will continue forever. We must have the land to build jails to protect the citizens. Expanding an existing jail is more acceptable than trying to obtain voter approval for a new location. The need is great and few citizens would find fault with planning for the future." (*Id.*, at 6.)

The potential use of the 39 acres for farming and future development is also recognized in the DEIR and the Reuse Plan. On page 127, the DEIR states in discussing the conveyance acres:

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To the north/northeast, a 12-15 acre cleared area could be used for agriculture or development. The 1986 Musick EIR, in fact, approves this area for agricultural use by the Sheriff's Department, and the recently issued Reuse Plan EIR proposes this area for conveyance to the Sheriff's Department for agricultural purposes.

In point of fact, Figure 3-1 of the Reuse Plan identifies the two conveyance parcels as slated for open space/institutional use. Thus, future development of the 39 acres is reasonably foreseeable. Failure to include the parcels understates the potential for future expansion of the facility.

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To avoid impermissible piecemealing of the project, the DEIR must acknowledge the 39-acres as part of the project, and must analyze the impacts of its use for both agricultural production and future expansion of the jail facility.

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Page 35-36 — Capacity. The number of beds included in the proposed project does not include replacement of beds for the 543 inmates located in tents and modular units (although these inmates will be moved into Complex 2 as indicated on page 45 of the DEIR). The DEIR needs to address replacement of these beds.

The capacity used to calculate the impacts of the proposed Musick facility will significantly understate the likely impacts of the proposed project. It is inappropriate to analyze the potential impacts of the project based on the proposed rated capacity of 7,584 regular beds. The analysis should be performed based on worst-case capacity and should include all reasonable and future expansion. No correctional facilities are operating at rated capacity. For example, all of the prisons in California currently are operating well in excess of their rated capacities. See Exhibit "KK." In selecting an appropriate level of usage for the facility in the year 2006, and for the "interim" and "long term" conditions, the following factors apply:

- It is likely that Musick will still be called on to provide facilities for the 543 inmate spaces currently located in tents and modular units. Inclusion of these beds would result in a capacity of 8,126 and a utilization rate of 107 percent of capacity.

- In addition, the DEIR anticipates up to 384 additional inmates being held at the facility on a short term emergency basis. This would result in a capacity of 8,510 and a utilization rate of 112 percent of capacity.

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- The Orange County Sheriff Department, in a document received by the City of Lake Forest in response to a Public Records Act request, acknowledges a "worst case" capacity of 9,312 inmates. (Exhibit "A" at 2.)

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- To provide an increasingly more accurate picture, what the DEIR itself defines as "crowded capacity" (130 percent) for the planned facilities should be used. According to the DEIR at page 36, crowded capacity equates to 9,859 inmates.

The analysis must also acknowledge the likelihood of future expansion of jail facilities on the 39-acre El Toro conveyance, and account for the inmates who will be housed there.

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It is particularly important that the DEIR not piecemeal the project given the history of correctional facility planning and expansion in the County. Analyzing the project based simply on rated bed capacity clearly would result in impermissibly piecemealing evaluation of the project's true potential impacts. The analysis must be redone considering crowded conditions at the planned facility, and the potential for existing expansion on the 39-acre El Toro conveyance parcel.

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Notably, the County's insistence upon analyzing prison capacity at its rated capacity, rather than its actual foreseeable "worst case" capacity, is one of the very grounds on which EIR 464 was invalidated. See Exhibit "HH" at 4. EIR 564 must be redrafted in its entirety, using the worst case capacity of at least 9,312 inmates (Exhibit "A") as the jail's capacity. This capacity figure is the cornerstone of all the environmental analysis in DEIR 564, including traffic analysis, air quality analysis, etc., and all of these analyses must be redone, and a corrected and revised DEIR must be recirculated for

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public comment. If this is not done, it is evident that the EIR fails to comply with CEQA at the outset, as shown by the decision in the EIR 464 lawsuit.

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Exhibit 2. The legend on Exhibit 2 should be corrected as follows: item 2 is Pacific Commercentre not Baker Ranch; item 7 is Pacific Commercentre not City of Lake Forest; the area above the line above item 2 should be identified as Baker Ranch. The area below Trabuco Road and east of Bake Parkway should be identified as Lake Forest Planned Community.

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Pages 35-36 — Project Summary. The DEIR should provide a table summarizing the project components, as it is unclear from latter parts of the discussion whether the 7,584 regular beds includes the beds in the ICF.

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Pages 35-36 — Design Standards. The DEIR fails to indicate what design standards for correctional facilities, if any, have been used in planning the facility and fails to provide an analysis of the degree to which the facility meets the standards.

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Page 37-38. The DEIR provides insufficient information about the Interim Care Facility (ICF) to allow the reader to fully evaluate the facility's potential impacts. The following information should be provided for each of the years the facility has been in operation: How many crimes have been committed by residents during the time the facility has been in operation? How many gang members have unknowingly been admitted to the facility each year it has been in operation? What is the typical length of residence at the ICF?

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The DEIR also insufficiently analyzes the consistency of the location of the ICF with state licensing requirements and with other locational objectives established for

72 facilities of this kind. The DEIR should analyze and disclose incompatible combinations of land uses within the project design.

73 The DEIR also inadequately addresses the potential for expansion of the ICF in the future, including failure to address the potential capacity at ultimate buildout. The DEIR should disclose whether the existing ICF ever has operated in excess of its rated capacity and, if so, under what conditions and for what duration.

Finally, the DEIR inadequately addresses the issue of alternative uses of the proposed ICF site if the ICF is not built at the Musick facility. The DEIR provides only that in such event the ICF building site would "likely" be devoted to agriculture (page 51).

Other potential uses of the site must be enumerated and analyzed as well.

74 Page 38. The DEIR fails to provide sufficient information for the reader to assess the project's consistency with the AELUP. The DEIR should indicate the elevation from sea-level for all structures proposed on the project site.

75 Page 39. The DEIR's discussion of building configuration and jail description is inadequate. It should include, *inter alia*, an indication of the maximum number of cells and beds each module could contain, and should clarify which complex "also serves as a central reception point for inmates returning from court." The DEIR also fails to disclose whether the 400 to 500 beds dedicated for medical housing have been included in the 7,584 regular bed count given in the project description on page 35, or are additional beds.

76 Exhibit 6. The DEIR fails to indicate why the site plan for the proposed project has been altered from the plan provided in the NOP, and fails to discuss what land use and other constraints and opportunities were considered in the redesign.

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Page 41. The DEIR explains that guard towers are not required because medium and maximum security inmates never go to court or to the hospital. The DEIR, however, offers no explanation of why these inmates never get sick or attend court. Absent such explanation, it cannot be assumed that guard towers are not necessary and, if guard towers are required, this needs to be disclosed and evaluated in light of height restrictions.

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Page 42. The DEIR does not adequately clarify and address the roadway and infrastructure elements which will be built to support the project. If the project requires construction of the Alton Parkway extension, for example, the full extent of the extension should be shown on the project plans and the potential environmental impacts associated with the construction of the extension analyzed in this DEIR. The DEIR also fails to address the impacts if the improvement is not constructed in the timeframe assumed, and the consistency of the proposed alignment with the alignment in the Master Plan of Arterial Highways.

The DEIR inadequately discusses the transportation facilities that will be provided to inmates who are not picked up by family or friends, especially because not all inmates being released from the jail will be required to post bail. In order to accurately disclose and assess the extent of public safety risk to surrounding residents posed by inmates who are released from the jail, the DEIR should provide statistics on the percentage of inmates at other facilities regarding method of transportation upon release (ride, public transportation, walk, etc.).

The DEIR provides inadequate information to enable the reader to determine the accuracy of the traffic analysis and the adequacy of parking. The DEIR should give

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figures for the number of visitors per hour and per day projected to visit the facility. The projection should be based on figures from similar facilities currently in operation. The DEIR also needs to provide an estimate of the number of visitors who will access the site by means of public transportation.

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Page 45-47. The DEIR inadequately discusses the impacts of the project on the existing structures on the project site. If existing structures are to be demolished as part of construction associated with Complex 2, for example, the square footages of the structures must be provided so that the reader can gain a sense of the amount of material which must be disposed.

The DEIR inadequately addresses the rationale for housing inmates of all classifications within each complex. Wouldn't security and safety issues be easier to address if each complex housed inmates with a single classification?

The DEIR inadequately documents the methods used to calculate all items included in the description of the complexes, such as number of inmate buses and deliveries and visitors. The same factor does not appear to have been used for each complex.

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Exhibits 8a and 8b. The exhibits incompletely indicate the number of total staff necessary for each complex, instead providing information for new staff only.

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Pages 50-52. DEIR 564's discussion of funding for the proposed project is misleading and grossly inadequate. Because the DEIR states that affordable funding is a "project objective" (DEIR at 21) and because the DEIR repeatedly uses fiscal considerations as the basis for justifying this project and rejecting other alternatives, a complete explanation of feasible funding must be contained in the DEIR. In fact, DEIR

564 contains no analysis whatsoever of the cost of the proposed project. During the drafting process, the Sheriff's Department stated that cost studies would be performed as part of the environmental analysis. See Exhibit "C" at 2. No such cost studies are contained in DEIR 564.

Based upon documents prepared by the Sheriff's Department for a similar-sized jail at El Toro MCAS, it appears that construction of this jail will cost in excess of \$1 billion, and would cost \$230 million to staff. See Exhibits "V" and "W." Based on these estimates, the County has nowhere near the amount of funds necessary to build or operate the facility, and the proposed project cannot comply with identified project objectives.

81 DEIR 564 suggests that funding may be obtained if a November 1996 bond issue is approved by the voters. *Id.* at 50. Although approval of that initiative is uncertain at best, even passage of the initiative will not provide sufficient fundings to undertake this project. Even if the bond measure is passed, only \$350 million will be available for jail construction throughout the state. See Exhibits "C" at 2 and "JJ." Orange County's share of that funding obviously will not be enough even to begin constructing a billion-dollar jail complex. Moreover, the Sheriff already has stated that, if that bond measure passes and if Orange County receives funds, those funds will go first to completion of the already-approved Theo Lacey expansion. Obviously, the Theo Lacey expansion should be completed first, before the environmental analysis in the EIR for that project becomes stale, which would necessitate a reopening of the CEQA process for that expansion. Orange County will not get sufficient funds to undertake both that expansion and this project.

To the extent that DEIR 564 relies upon funding from Proposition 172 or the "COPs" program (*id.* at 50), this reliance also is unsupported. Page 3 of the Sheriff's letter contained in Appendix "C" to DEIR 564 notes that the COPs program would generate only approximately \$5 million per year for Orange County law enforcement, and only 12.5% of this money could be used for jail construction. See Exhibit "II." In other words, the COPs money would yield less than \$750,000 – hardly enough to build or operate a \$1 billion jail. Similarly, excess revenue from Proposition 172 is uncertain and would yield only a comparatively few dollars.

81 Accordingly, a detailed discussion of the phasing of this project and the funding of each phase is required in order for the Board of Supervisors to make a determination that this project is feasible in any respect. In fact, such a discussion will show that the project is entirely unfeasible, and that other lesser-cost alternatives discussed in Chapter 7 of the DEIR must be considered.

Information about the phasing of the project is also important because the DEIR contains contradictory information on this issue, and also because this information is necessary to properly analyze the environmental impacts of the project. On page 50, the DEIR states that operational costs would be first incurred "over three years" from the preparation of the DEIR. On page 42, the DEIR states that completion of the Alton Parkway extension in 2001 is "consistent with the schedule for the Musick Jail," which suggests that construction will not even begin until some time after 2001 because the excess soil from the Musick site is intended to be used for the Alton Parkway construction (DEIR at 55). An indication of the completion dates of each phase of the project is necessary in order to properly analyze traffic and other impacts, as well as to judge

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whether the extension of Alton Parkway will require re-programming of EMA's 7-year Capital Improvement Program, thus delaying construction of other system improvements and in turn creating significant impacts to those areas in which improvements are delayed. The DEIR also fails to indicate the expected life of the project, and therefore the potential and need for future expansions and construction/reconstruction cannot be properly assessed.

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Other Project Description Issues. In accordance with Section 15124 of the CEQA Guidelines, the project description must include a list of the agencies that are expected to use the EIR in their decision-making and the approvals for which the EIR will be used. The DEIR is deficient since it does not include this required information. In addition, the project description section must contain a fencing plan, which is particularly critical for a facility of this type.

Chapter 5 - Environmental Setting, Impacts and Mitigation Measures

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Page 53. For the reasons explained above, DEIR 564 improperly incorporates other documents by reference.

5.1 Landform, Soils and Geology

5.1.1 Environmental Setting

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Pages 53-55. The DEIR fails to summarize the key finding of EIR 447 and the Alton Parkway Project Report pursuant to Section 15150 of the CEQA Guidelines. It is inappropriate to make the reader refer to those documents in order to get the necessary information regarding soils, geology, seismicity and liquefaction.

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Grading. The DEIR fails to provide topographic information for the Alton Parkway extension and the 39 acres of conveyance, as well as for the portion of the project site

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5 shown in Exhibit 9. The DEIR must address potential impacts associated with the full project.

86 **Soils.** The DEIR notes that the contamination problem will delay construction of the Alton Parkway extension, but fails to adequately address the implications of delay for the operation of the jail facility.

The DEIR also fails to include a map for the full project site showing the types of soils. This is particularly important since the proposed project will result in the loss of prime agricultural farmland.

87 **Seismicity.** The DEIR does not provide setting information for the discussion of potential seismic impacts.

88 **Liquefaction.** The DEIR does not indicate what the potential is for liquefaction on the site, or indicate the potential liquefaction areas.

89 **Page 55 - Thresholds of Significance.** Section 21082 of the Public Resource Code requires public agencies to adopt by ordinance, resolution, rule or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports. Prior to analyzing the project's potential impacts, the DEIR should specify the threshold of significance established by the County pursuant to Section 21082 for each potential issue area. This will provide the reader the opportunity to evaluate, and comment on, the County's criteria for determining whether impacts are significant. No such thresholds are provided. CEQA requires consistency between the information presented in the DEIR, the analysis of impacts, and the specification of mitigation measures with the thresholds of significance.

5.1.2 Project Impacts Prior to Mitigation

Grading. The DEIR does not adequately discuss pre- and post-construction topography for the project site. This is particularly important, given height limitations imposed by proximity to the potential airport. The DEIR should provide topographic maps giving existing and post-grading elevations from sea level. The maps should also provide overlays, showing the areas with height limitations and specifying the limitations.

The DEIR incorrectly states that Exhibit 10 shows grading volumes. In fact, it appears to show the grading phasing for the version of the project included in the NOP. Any exhibit should include the full project site, which includes the Alton Parkway expansion area and the 39 acres of conveyance.

The DEIR inadequately discusses the disposition of the cut (380,000 cubic yards) and the timing of the cut and fill activities. Specifically, it fails to discuss the timing of the use of cut for construction of Alton Parkway. If the fill activities are not to occur concurrent with cut activities, the DEIR needs to discuss where the fill materials will be stored pending construction of Alton Parkway. It also needs to indicate whether additional fill materials, beyond those generated by on-site cut activities, will be required, and where the material will come from.

The DEIR also fails to address impacts that may result from the temporary storage of fill materials on-site, and fails to include mitigation measures for such impacts. The DEIR similarly fails to discuss impacts that may occur if fill material is exported off-site. Export may occur, because there are height concerns which would affect the desirability of relocating the fill, and because construction of the fully improved Alton Parkway is not certain according to DEIR 564. The DEIR therefore needs to discuss potential impacts

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0 associated with export and include mitigation for the potential impacts associated with the export of soils.

Soils. The DEIR should consider the loss of agricultural land *de novo*, since the proposed project involves demolition of the existing facility and construction of a new facility. Impacts should be determined based on existing conditions, rather than the prior EIR, since the DEIR has not specified that all mitigation measures included in the prior EIR apply to the proposed project and since this DEIR is not tiered from the prior DEIR. The DEIR should provide a table which: (1) summarizes the amount of existing agricultural land for each of the four project sites (the existing site, the Alton extension site, and the two sites which make up the 39 acre conveyance); (2) indicates the amount of agricultural land which will exist on each site following construction of the proposed project; and (3) show the net gain or loss of prime agricultural land.

91 The proposed project will result in the loss of prime agricultural land on the existing site, as well as loss of the prime agricultural land on the Alton Parkway site. (The DEIR does not provide sufficient information for the reader to determine the number of acres lost). A further loss of prime agricultural land would occur when the adjacent 39-acre parcels are converted from agricultural use to jail uses, as contemplated by the Sheriff according to Exhibit "Q." These losses of prime agricultural land are a significant impact of the project (CEQA Guidelines, Appendix G, item Y) and must be identified as such, just as they were by the County in 1989 in Revised Subsequent EIR 499. See Exhibit "AA" at 5.

Expansion of agricultural activities associated with the facility does not, in and of itself, constitute an off-set for the loss of agricultural land. If the activities will occur on

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existing prime agricultural land, this is not an off-set. In addition, cultivation does not alone provide protection for the land, which could be converted to other uses at any time.

The proposed project creates development pressures on agricultural land, which may result in indirect impacts. Indeed, as discussed above, long-term plans for the 39 conveyance acres appear to include jail expansion on the site. Even apart from long-term expansion plans, ability to farm the 39 conveyance acres may be questionable, given the fact that endangered species exist in close proximity to one of the sites (see Exhibit 24 of the DEIR). This section should also discussed the potential limitations on agricultural activities resulting from proximity to the NCCP and habitat supporting threatened and endangered species.

Page 58 - Cumulative Impacts. The EIR should discuss the cumulative loss of prime agricultural land in the County (number of acres lost per year) and the project's contribution to this significant cumulative impact.

5.1.3 Mitigation Measures

Page 58. Mitigation measures should be organized under subheadings indicating the impact addressed by each mitigation.

As indicated above, the EIR fails to include mitigation measures for impacts associated with the temporary storage of fill material and the export of soils. At a minimum, the following mitigation measures should be included in the DEIR:

Mitigation Measure: To the extent that fill material is temporarily stored anywhere on or adjacent to the site, the height of the piles of fill material will be limited so that they are not visible from any of the surrounding streets or from residential areas in the City of Lake Forest.

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Mitigation Measure: If any fill materials or soil are to be stockpiled in the City of Lake Forest or the City of Irvine, prior to such stockpiling, a use permit shall be obtained from the Planning Commission of the City involved.

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Mitigation Measure: If any fill material or soil is to be exported from the project site and transported from the site over the streets of the City of Irvine or the City of Lake Forest, prior to such movement, the County shall post a bond with Lake Forest and/or Irvine to pay the cost of street sweeping and street repairs necessitated by the transport.

The following mitigation measure would reduce, but not eliminate, the significant impacts of the project on agricultural land:

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Mitigation Measure: The County shall set aside, in perpetuity, the two conveyance parcels for agricultural use. The two parcels shall be rezoned agricultural by the County, prior to the issuance of building permits for the Musick facility and a deed restriction to prohibit any use but agricultural shall be recorded.

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5.1.4 Level of Significance After Mitigation

Project Impacts. Absent a full analysis in the DEIR of project impacts resulting from on-site storage of fill materials or the off-site export of such materials, it must be assumed that such impacts will be significant. Impacts on agricultural land will also be significant.

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Cumulative Impacts. The EIR should identify loss of prime agricultural land as a significant cumulative impact.

5.2 Air Quality

The air quality analysis is fatally flawed for the following reasons:

- It is based on incorrect trip generation numbers for the proposed project because the jail's capacity has been understated (see discussion under Project Description, above, and Transportation and Circulation, below).
- The analysis does not consider the impact of demolition on the project site.
- The analysis does not consider the full project. Analysis of construction of Alton Parkway, farming of the 39 conveyance acres, and future jail expansion on the 39 acres are not considered.
- The analysis fails to address the following potential impacts: impacts to sensitive receptors and micro-scale impacts.
- The discussion fails to classify PM10 and NOx emissions as significant after mitigation.

Page 60. Air data from EIR 447 may not be relied upon in this EIR. EIR 447 was completed in November of 1986. The information contained in that document is dated, and is not relevant to the assessment of the proposed project's impacts.

5.2.1 Environmental Setting

Pages 60 - 64.

The DEIR should identify the location of sensitive receptors in the project vicinity.

Page 64 - Thresholds of Significance. Significance thresholds should clearly be presented for potential construction and operational impacts. Operational thresholds should be presented for CO micro-scale impacts as well as for total project emissions.

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Page 64. The DEIR itself makes clear that the CO analysis is inadequate. It states that "Analysis of the potential CO impacts due to the project requires computer modeling and will be shown in the local air quality section." The DEIR provides no such analysis. This analysis must be conducted and a new DEIR must be prepared and recirculated.

5.2.2 Project Impacts Prior to Mitigation

Page 65. The acreage of the project specified on page 65 is incorrect. The project also includes the 39 acres of conveyance and the Alton Parkway extension site. Total project acreage must be used for the analysis.

The DEIR also fails to analyze the air impacts of the demolition of existing structures.

The DEIR incorrectly states that grading activities will generate 160 pounds per day of PM10 emission. First, Table 9 states that 163 pounds per day will be emitted. Second, the DEIR notes that without the mitigation measure of watering prior to and during grading, the PM10 emissions would be 320 pounds per day. Thus the 320 pound/day figure for project impacts prior to mitigation is the figure that should be reported both in the narrative and in Table 9.

The DEIR's comparison of project emissions to regional emission levels throughout the analysis is not relevant. The comparison indicates an inappropriate bias on the part of the DEIR writers in favor of down-playing project impacts.

Pages 66-69. The DEIR inaccurately estimates the long term regional air quality impacts, since the analysis is based on inaccurate trip generation rates in the traffic analysis (see discussion under Transportation and Circulation below). The DEIR also

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fails to indicate the factors used in calculating electrical and gas consumption. The emissions calculation should also include emissions associated with farming activity, which contributes to PM10, as well as other emissions associated with farming equipment.

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The DEIR fails to include a micro-scale CO emissions analysis. Such analysis is particularly important since the project does result in significant impacts at several intersections, even based on the traffic analysis prepared for the project, which fails to properly consider cumulative LOS degradation in the project vicinity. This is indicative of likely significant micro-scale impacts. Pending analysis to the contrary, micro-scale impacts should be classified as significant and unmitigated.

The DEIR fails to analyze potential impacts on sensitive receptors. Pending analysis to the contrary, these impacts should be classified as significant and unmitigated.

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Page 69 - Cumulative Impacts. The EIR must include a discussion of cumulative air quality impacts. This discussion should address the degree to which federal and state air quality standards are projected to be exceeded in the Air District in the future. The analysis should also look at the degree to which development in Orange County is consistent with development allowed under the General Plans for the County and local jurisdictions. To the degree that development is inconsistent with the General Plans, it is inconsistent with the Air Quality Management Plan, which assumes General Plan level development. There are several cumulative projects under consideration in the project vicinity (El Toro Reuse and Irvine Planning Area 30, for example) which are inconsistent with adopted General Plans, which represent a significant increase in development level, and which would therefore interfere with the region's ability to meet air quality standards

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106 in the future. The Musick project would thus contribute to significant cumulative air quality impacts.

107 **5.2.3 Mitigation Measures**

Pages 69-73. Mitigation measures should be organized under subheadings indicating the impact addressed by each mitigation.

108 **Mitigation Measure 23.** The County shall demonstrate a commitment to provide funding for bicycle lane construction. The mitigation shall be modified to ensure that bicycle lanes are constructed, prior to issuance of the first project occupancy permit.

109 **5.2.4 Level of Significance After Mitigation**

Project Impacts. The DEIR incorrectly states that all impacts will be reduced to a level of insignificance after mitigation. Project construction PM10 impacts should be classified as significant after mitigation. Long-term project NOx emissions should also be classified as significant after mitigation. Although SCAQMD mitigations will reduce impacts, the effectiveness of the mitigations can not be quantified. It is unlikely that they will reduce PM10 emissions by the required 182.68 pounds per day or NOx emissions by the required 132 pounds per day. Indeed, the Air Quality Assessment for Musick Jail Expansion explicitly states that NOx levels would still be significant with the recommended mitigation measures. (Appendix F, p. 15.) Additionally, the DEIR cannot conclude that CO impacts are insignificant absent proper analysis.

110 **Cumulative Impacts.** The DEIR fails to indicate that cumulative development in the region will continue to contribute to the region's failure to meet ozone, carbon monoxide, nitrogen dioxide, and suspended particulates air quality standards attainment deadlines. This is a significant cumulative impact.

5.3 Hydrology

5.3.1 Environmental Setting

111 Page 74. The DEIR fails to summarize the key finding of EIR 447 pursuant to Section 15150 of the CEQA Guidelines. It is inappropriate to make the reader refer to this document in order to get the necessary information regarding hydrology.

The DEIR also fails to indicate whether any portions of the site are within the 100-year flood plain. Based on Figure 4-74 in the El Toro Reuse DEIR, it would appear that portions of the project site are within the flood plain.

The setting section fails to discuss planned drainage improvements in the project area, including those associated with construction of Alton Parkway; fails to provide background information on water quality issues associated with farming and the use of pesticides; fails to explain requirements related to Water Quality Management Plans, Best Management Practices, and NPDES permits; fails to address water quality issues associated with the old landfill on the MCAS-El Toro property; fails to indicate the drainage pattern for the full site, as opposed to just the 100 acres; and fails to discuss the depth of groundwater.

112 Page 74 - Thresholds of Significance. The DEIR should specify thresholds of significance for flooding, drainage, and water quality impacts.

5.3.2 Project Impacts Prior to Mitigation

113 Pages 74-75. The DEIR fails to provide actual quantification of existing runoff and the amount of runoff with the proposed project. The DEIR should include runoff associated with construction of Alton Parkway in the analysis. Without a pre-project

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baseline and a post-project runoff calculation, the significance of the increase cannot be determined.

The DEIR should indicate whether or not any portions of the site are within the 100-year flood plain, and must analyze the potential for flooding impacts.

The DEIR fails to indicate the route that drainage water would follow from the project site (including the 39 conveyance acres and the Alton Parkway extension) into drainage facilities. The DEIR should discuss whether the project would alter the current route.

The DEIR fails to analyze the degree to which existing drainage facilities are adequate for the project in the event construction of storm drains planned for Borrego Wash are not constructed prior to the proposed project.

113 If the proposed project will create the need for the Borrego Wash improvements and the improvements are a necessary part of the project, or project mitigation, these improvements should be included in the project description, and the impacts of these improvements analyzed.

The analysis relies on the 1986 EIR and the Kennedy/Jenks report used to prepare that EIR. It is common practice when performing an EIR analysis to consult with involved agencies, particularly when relying on studies that are a decade old. It would appear no such consultation occurred here. Additionally, the DEIR should reference and make use of subsequent studies that have been done.

The DEIR should address the potential impacts to Serrano Creek, particularly potential water quality impact, including those associated with agricultural activities.

The DEIR should also analyze the potential for impacts associated with construction of the project in proximity to ground water contamination. Page 123 of the

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DEIR indicates that grading of the project site will result in removal of 10 to 50 feet of soil in the central and northeasterly portions of the existing site. The discussion must address the potential for grading activity to result in exposure to contaminated groundwater. Pending completion of the analysis, project impacts associated with exposure to contaminated groundwater should be classified as significant.

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Page 75 - Cumulative Impacts. The DEIR must include a discussion of cumulative hydrology impacts. This discussion should address the degree to which planned improvements are adequate to meet the needs of future development. Cumulative impacts to water quality should also be addressed.

5.3.3 Mitigation Measures

Page 75. Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation. The DEIR should address the issue of the County's financial capacity and commitment to provide required improvements.

The following mitigation measure should be included in the DEIR in order to ensure that appropriate drainage improvements are in place to serve the project:

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Mitigation: Construction of the Borrego Wash drainage

improvements shall be completed prior to the issuance of the occupancy permit for the first phase of the project.

The DEIR should include design mitigations to ensure that electrical vaults, related facilities and other water sensitive facilities are located above the flood zone.

The following mitigation measure should be included in the DEIR in order to reduce the potential for impacts associated with exposure to contaminated groundwater:

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Mitigation: Prior to approval of the grading plan for the proposed project, boring to determine the depth of groundwater shall be conducted anywhere on the site that grading would result in the removal of soils in excess of a depth of 25 feet. If groundwater is encountered, the water shall be tested for the presence of contaminant. The presence of groundwater or groundwater contamination shall be deemed evidence of a significant impact, which was not addressed in the EIR for the project, necessitating preparation of a supplemental EIR for the project. All project related activities will be suspended pending completion and certification of the supplemental EIR.

5.3.4 Level of Significance After Mitigation

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Project Impacts. A mitigation measure must be included which ensures that drainage improvements are in place prior to occupancy of the project, otherwise drainage impacts should be classified as significant and unmitigated.

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Cumulative Impacts. The DEIR fails to indicate whether or not drainage improvements are adequate for cumulative development in the project watershed. The DEIR should also identify any cumulative water quality impacts.

5.4 Aesthetics

5.4.1 Environmental Setting

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Page 76. The DEIR should include a map which identifies the locations from which the site photographs were taken.

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Page 76 - Thresholds of Significance. The DEIR should specify thresholds of significance for aesthetic impacts.

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5.4.2 Project Impacts Prior to Mitigation

Page 76. The DEIR should provide a rendering of the proposed buildings to demonstrate that the proposed design will be similar to the office and industrial buildings in Irvine Spectrum and Pacific Commercentre.

The discussion incorrectly states that the height limitation for Pacific Commercentre is 35-50 feet. This discussion should be corrected to indicate that the height limitation in the Business Park District of Pacific Commercentre is 35 feet. The jail complex as currently designed will contain the tallest structures in the area. A higher height may be permitted in other districts of Pacific Commercentre, but these districts are not close to the proposed jail. This will make the jail a landmark or "sore thumb" in the area, just as the Orange County Superior Court found would occur with the proposed Katella-Douglass jail. See Exhibit "HH" at 9. This is a significant aesthetic impact.

Page 79 - 81. If an important aesthetic feature of the plan is the retention of 22 acres of farming which serves as a buffer, a mitigation measure should be included in the DEIR to ensure that no future construction will occur in the buffer area.

The DEIR should also provide cross-sections which show the views from the upper stories of Pacific Commercentre buildings. Views of the jail from offices may be considered unpleasant by potential tenants, as they may remind tenants of their proximity to the jail. In fact, one of the seven brokers surveyed for the economic analysis in Appendix L (see page 30) indicated that as early as August of 1996, the mere possibility of the jail had already led one potential tenant to reject office space in Pacific Commercentre. This aesthetic and consequent socioeconomic impact should be

discussed in the DEIR. Pending further analysis, the impact should be considered significant.

Page 81. This analysis and Exhibit 15 both assume that structures will be built in Pacific Commercentre that will block views of the jail from Lake Forest residences. As noted above, the DEIR incorrectly assumes that the height of these buildings will be as much as 50 feet. Even more important, the DEIR cannot base a finding of no impact on buildings that do not presently exist – and may never exist (especially if development in Lake Forest is stunted by construction of the proposed project). Exhibit 15 shows that there will be an unobstructed view from Lake Forest residences to the project if no buildings are constructed at Pacific Commercentre, so a significant impact must be identified.

To the extent that the DEIR's conclusion that project will not result in aesthetic impacts is based on the fact the design includes setbacks, the farming buffer and the landscape concept, mitigation measures must be included to ensure that these aspects of the project design will not be changed. As addressed below, the DEIR must establish that these measures are acceptable from a security viewpoint prior to their inclusion in the document and, even with these measures, a significant impact will exist.

Exhibit 16. The DEIR cannot rely on "conceptual" mitigation for project impacts. The DEIR's reliance on a conceptual wall/fence mitigation measure is particularly disturbing in light of Sheriff's Department studies and internal planning consultant memos indicating doubt as to the wall's viability from a security viewpoint. Exhibit 16 suggests that the fortress-like appearance of the jail will be lessened by landscaping and a 12' block wall. This Exhibit states, however, that it is a graphic representation only and that

"other concepts and treatments may be proposed in the construction drawing process." Similarly, Mitigation Measures 31 and 33, which purport to require the landscaping and block wall, state that these design elements will be included only to the extent that they are consistent with the security of the facility.

123 There is every reason to believe that these design elements are not consistent with the security of the facility, and that they will never be built. The County's own jail facility design study states that a buffer zone of 300' including a perimeter route is preferable, and that "[w]ithin this zone, a 50 foot minimum clear zone adjacent to the perimeter road is recommended." Exhibit "B" at 5. Such allowances would prevent construction of the block wall and the landscaping depicted in Exhibit 16. The Sheriff's Department and the drafter of DEIR 564 were well aware of this conflict, but the drafter of the DEIR felt that it was important that the document stated that landscaping and a wall would be provided – regardless of whether such construction was actually ever to occur. Thus, on August 9, 1996, the principal drafter of DEIR 564 sent a preliminary sketch of Exhibit 16 to the Sheriff's Department. See Exhibit "M." The Sheriff's Department responded that "it would be best *not* to have a sketch. Fencing was a critical issue in the Lacy EIR, and we have not prepared a 'detailed' fencing plan yet for Musick." *Id.* The next day, the principal drafter of the EIR prepared another memo concerning this issue, which was copied to both the Sheriff's Department and the Orange County Environmental Management Agency. See Exhibit "G." In this memo, DEIR 564's author asked that Exhibit 16 include language stating that it was conceptual only and "should not be interpreted literally." *Id.* This memo also explains that Exhibit 16 was being included

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solely to avoid acknowledgment of a significant impact in the Aesthetics section of the DEIR:

"The Sheriff's Department had a great deal of problem with the wall/fence issue in the Theo Lacy project because specific commitments were made that then had to be adjusted to avoid compromises in security. Still, from a CEQA standpoint, I feel strongly that we must address this issue in a conceptual fashion *in order to reach a conclusion in the Aesthetics section that there are no significant impacts.*" See Exhibit "G" (emphasis added).

123 This communication starkly evidences that the DEIR process has impermissibly been driven by the County's desire to conclude that there will be no significant impacts from the project. CEQA in fact requires the County first to consider and commit to *viable* mitigation measures, and then to determine whether significant impacts will remain after implementation of such measures. Absent adoption of landscaping and a wall/fence combination that will be acceptable to all parties from a security viewpoint, this mitigation cannot be relied upon to support the conclusion that there will be no significant aesthetic impacts.

Finally, the DEIR must contain an analysis of view impacts if Complexes 1 and 2 are raised 3 to 4 feet in height because of the retention of soil on site, as is discussed at page 57 of the DEIR. This possibility completely changes all of the view impacts analyzed in the DEIR and must be disclosed and analyzed as a foreseeable "worst case" scenario.

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Page 81 - Cumulative Impacts. The EIR must include a discussion of cumulative impacts. This discussion should address the impact of cumulative development on the aesthetics of the area and on existing viewsheds.

5.4.3 Mitigation Measures

Pages 81-84. Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation.

Mitigation Measure 31. The measures should be modified as follows to ensure that the final landscape plan continues to provide adequate relief from potential project impacts:

Prior to the approval of construction bid documents for any permanent building at the Musick Jail, a landscape plan shall be prepared by a licensed landscape architect. At a minimum, landscaping, and fencing will be provided at the level demonstrated in Exhibit 13 of the DEIR for the project.

The following mitigation measure should be included in the DEIR in order to ensure that the setbacks and the farming buffer included in the site design are maintained. Otherwise future development on the site, or modifications made in the course of final project design, could result in significant aesthetic impacts:

Mitigation: The County shall ensure that the final project design meets or exceeds the setbacks and farming buffer size established in Exhibit 13 of the DEIR for the project.

The following mitigation would reduce the significant aesthetic impact associated with the heights of the proposed project buildings. If the height limitation contained in the

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mitigation is not adopted, aesthetic impacts associated with the height of the jail complex should be classified as significant and unmitigated:

Mitigation: The height of buildings included in the jail complex shall not exceed 35 feet, from existing elevations on the project site.

5.4.4 Level of Significance After Mitigation

Project Impacts. Once the modifications to the mitigation measures specified above are made, project impacts can be classified as less than significant after mitigation. If the recommended changes in the mitigations are not made, impacts should be classified as significant after mitigation.

Cumulative Impacts. The DEIR should address the degree to which the aesthetic changes in the area associated with cumulative development are significant after mitigation.

5.5 Noise

The DEIR's attempt to understate the project impacts is evidenced in the noise analysis as well. The analysis is fatally flawed for the following reasons:

- The analysis is based on an incorrect cumulative projects base.

The analysis must consider reuse of El Toro.

- As discussed more fully in the transportation and circulation discussion, the analysis is based on incorrect trip distribution. Project trip distribution is much higher than assumed in the analysis.

- The discussion fails to identify significant cumulative impacts associated with noticeable increases in noise due to cumulative development, violations of the noise land use compatibility standards of the County and/or

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adjacent jurisdictions and exposure of additional persons to unacceptable noise levels due to the introduction of new uses into the area.

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- The discussion fails to identify the following significant project impacts: construction traffic noise, potential noise land use compatibility standards violations, increased exposure of farm workers to unacceptable noise levels, introduction of a residential use (ICF) into an area with unacceptable noise levels.

The analysis must therefore be redone and recirculated for comment.

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Page 85. The DEIR should summarize the key finding of EIR 447 pursuant to Section 15150 of the CEQA Guidelines. It is inappropriate to make the reader refer to those documents in order to get the necessary information regarding noise. The compatibility standards for Lake Forest and Irvine should also be provided.

In addition to explaining CNEL, the DEIR should also explain dBA and dB.

5.5.1 Environmental Setting

Page 85. The reader should not have to hunt through the technical appendices for an explanation of the County's land use compatibility standards. Exhibits 4 and 5 in Appendix G should be included in the body of the DEIR.

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The DEIR does not clarify whether the FHWA noise model has been adjusted to account for the presence of other significant noise generators, such as aircraft noise. If not, use of the FHWA model is inappropriate for this project, since traffic is not the only major contributor to noise in the project area. A method which accurately predicts noise levels and accounts for airport-related noise must be used for this analysis. The DEIR should provide a table which compares the output of the FHWA Highway Traffic Noise

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Prediction Model with actual readings taken at the key intersections included in the analysis. It is important that the figures given for existing conditions actually reflect current noise levels, rather than model generated noise levels, which fail to include the effect of aircraft noise.

Pages 85 - 91 — Land Use Compatability Standards. The DEIR should provide a map showing the existing and zoned land uses along each of the roadways studied, with an overlay of the CNEL contours. The DEIR should discuss the degree to which existing noise levels (including airport related noise) result in incompatibilities with existing and permitted land uses. Without this type of discussion or identification of existing land uses along the study roadways, it is impossible for the reader to determine whether the proposed project will result in an exceedance or worsening of compliance with the land use compatibility standards of the County and the adjacent jurisdictions.

The setting section would also be more useful if it included the existing noise contour figures from the Lake Forest, Irvine, and County General Plans in the setting section.

The DEIR should also provide data on the actual number of annual jet operations for each of the last 10 years.

Page 90. The DEIR should define "annual jet operations" to clarify whether this refers to the number of take-offs and landings, just take-offs or just landings.

Page 91. 5.5.1d does not appear to be a correct section cite. This reference must be corrected.

Exhibit 17. This exhibit is very difficult to read. It should be replaced with a legible exhibit, which also indicates the land uses, particularly under the CNEL noise contours.

5.5.2. Thresholds of Significance

Page 91. The DEIR again fails to provide any indication of the County's criteria for determining whether impacts are significant. The DEIR should include the following types of noise thresholds:

(1) Noise impacts are significant if they result in a noticeable increase, defined as an increase of 3 dBA or greater. (The discussion on page 95 regarding the dBA level associated with a noticeable increase should be moved under this heading.)

(2) Noise impacts are significant if they cause the County's noise and land use compatibility standards to be exceeded or if they exceed the standards of the adjacent jurisdictions. (See Exhibits 4 and 5 in appendix G). For example, if a project results in a 1 CNEL increase such that the noise level in a residential area goes from 59 to 60 CNEL, the increase is significant.

(3) Noise impacts are significant if new uses are introduced, such that additional persons are exposed to interior or exterior noise levels exceeding the County's CNEL standards or the standards of the adjacent jurisdictions.

There should be consistency between the information presented in the setting, the analysis of impacts and the specification of mitigation measures with the thresholds of significance.

5.5.3 Project Impacts Prior to Mitigation

Page 91. Exhibit 2 of the noise study, which will help the reader evaluate construction noise impacts, should be included in the main body of the DEIR.

The DEIR should also include a figure indicating the route that construction traffic is anticipated to take. A mitigation measure must be included to ensure that the route used is acceptable and that the contractor uses the designated route. Pending proper mitigation, construction traffic noise impacts should be classified as significant.

Pages 93 - 95 — Noticeable Increase. Despite CEQA's intent that the EIR fully disclose project impacts, the noise analysis fails to provide the reader sufficient information to identify cumulative as well as project impacts. While the appendix to the noise study includes such information, the reader should not have to review the technical appendices to gather such basic and critical data. To rectify this situation, Table 15 should also provide existing and projected noise levels, not just the noise increase. This will enable the reader not only to identify cumulative as well as project impacts, but to identify impacts associated with violations of land use compatibility standards. Further, the existing, future and future with project noise levels should include the effect of airport noise. (This is not even included in the DEIR appendix.) Existing levels should include noise associated with existing military use of El Toro (1994) and future levels should be based on reuse of El Toro. Changes of 3 dBA or more from existing to future conditions should be classified as significant cumulative impacts; changes of 3 dBA or more between future and future plus project conditions should be classified as significant project impacts.

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The appendix indicates that cumulative development will result in significant cumulative traffic impacts in a number of locations. The DEIR must identify those impacts.

The DEIR's understatement of project traffic, discussed in the transportation section, taints the noise analysis as well. ADT levels used in the analysis are based on incorrect trip generation rates from the traffic study, and hence are understated as well.

The analysis will need to be redone to reflect the correct rates.

The discussion of the use of 3 dBA as a threshold of significance on page 95 should be moved under the heading "Thresholds of Significance."

Pages 93-95 — Land Use Compatibility Standards. The DEIR should also include an analysis of the degree to which the proposed project and cumulative traffic will result in violations of the County's Land Use Compatibility Standards or the standards of the adjacent jurisdictions. Based on the material to be included in a revised Table 15, the DEIR should identify as significant any instances in which the proposed project results in an increase in noise levels, such that the County's noise Land Use Compatibility Standards or the standards of the adjacent jurisdictions are violated. A change in noise levels from 59.5 to 60.1, depending on the existing land use, could be classified as significant. The DEIR should include an additional table indicating the changes between existing and future, and between future and future plus project, in terms of the change in the distance of the CNEL Contours from the roadway centerline. The existing and future contours should be overlaid on a land use map to help illustrate any noise land use compatibility issues. The areas of significant impact should be shown on a map.

Pages 96 - 100 — Exposure of Additional Persons to Unacceptable Noise

133 Levels. The analysis of traffic noise will need to be redone to reflect airport noise in the baseline, the correct future traffic scenario (*i.e.*, including reuse of El Toro) and correct project traffic volumes. The discussion must also provide a conclusion. One will need to be added. Since minimum security prisoners are likely to engage in farming-related activity along Alton Parkway, and the noise levels along Alton Parkway exceed exterior noise standards on some portions of the project site which would be used for farming, the proposed project would result in the significant exposure of additional people to unacceptable exterior noise levels associated with traffic.

Page 97. The El Toro Reuse DEIR includes both a No Project (continued military use of the base) and No Development (no reuse or other activity on the site) Alternative. The discussion must be modified to correctly distinguish between the No Project and the No Development Alternatives.

134 It is difficult to believe that an international airport with 612.3 average daily departures (see Table 2-5 of the Reuse EIR) which equates to 223,489 annual departures will result in a smaller noise contour than a military base with 72,000 annual jet operations. The sheer difference in the number of operations would argue against this conclusion. In addition, we would anticipate that reuse would result in more evening and night operations, which are subject to a CNEL penalty. The DEIR should provide an independent analysis of the CNEL contours that are likely to occur with Alternative A of the El Toro Reuse EIR.

Since the proposed project would result in an increase in the number of acres farmed (22 acres on the existing facility plus the two conveyance parcels), the project

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would result in an increase in the number of minimum security prisoners exposed to unacceptable exterior noise levels. This is a significant impact of the project.

The Interim Care Facility (ICF) includes an outdoor recreation use. See Exhibit "RR." The DEIR attempts to avoid a finding of significant impact on the ICF by evaluating the facility as a motel, rather than a residential use. This classification is clearly unreasonable unless the maximum length of stay in the ICF is one week or less.

If this is not the case, impacts to ICF residents should be classified as significant. If the ICF includes private offices, schoolrooms, and/or conference rooms, mitigation measures requiring upgrades will be necessary.

Page 100 — Cumulative Impacts. The EIR must include a discussion of cumulative impacts. The DEIR should address the potential for cumulative development to result in noticeable increases in noise (3 dB or greater), violations of the County's noise Land Use Compatibility Standards or the standards of the adjacent jurisdictions, or exposure of additional persons to unacceptable noise levels. The appendix of the Noise Study, Appendix G to the DEIR, indicates that cumulative development will result in noticeable increases in noise. Once cumulative development is properly analyzed, the DEIR will likely identify areas where cumulative development results in violations of the County's, Irvine's and Lake Forest's noise Land Use Compatibility Standards. In addition, given some of the proposed reuses, it is likely that cumulative development will expose additional persons to unacceptable exterior and perhaps interior noise levels. These impacts must be identified as significant cumulative impacts.

5.5.3 Mitigation Measures

Page 100-101. Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation.

The following mitigation measures should be added to the DEIR to reduce the potential for construction-related traffic impacts:

Mitigation: At the time that project construction jobs are bid, the Director of Public Works shall ensure that project specifications include the acceptable route for construction traffic. The route shall be reviewed and approved by Growth Management Area (GMA) 9 prior to inclusion in the project specifications. The specifications shall indicate that the contractor shall be fined \$1,000 per day for any violation of the specified route. The fine shall be payable 50 percent to the City of Irvine and 50 percent to the City of Lake Forest.

The following mitigation measure should be added to the DEIR to reduce the impact of land use compatibility standard violations:

Mitigation: The County shall establish a program for providing testing of interior noise levels for those areas where project and cumulative development is projected to result in violations of noise land use compatibility standards for residential uses. In the event that testing reveals that interior noise standards are exceeded, the County shall pay for the double-paneling of windows and other retrofits necessary to reduce interior noise levels to standards. The program shall be in place within one year of issuance of the project occupancy permit.

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Mitigation: The County shall establish a funding program for park improvements to off-set the loss of private outdoor recreational opportunities resulting from project and/or cumulative development related noise. A per unit payment shall be required for those areas where project and cumulative development results in an increase in noise levels, such that front and back-yard noise levels exceed the exterior noise standards.

The payment shall be made by the County to the jurisdiction in which the residence is located. The payment amount shall be consistent with the park fee schedule for the jurisdiction in which the unit is located.

The following mitigation should be added to the DEIR to reduce the impact of exterior noise on minimum security prisoners when they are outdoors or engaged in farming activity:

Mitigation: The Sheriff's Department shall furnish all workers and inmates engaged in outdoor activities at the Musick Facility ear muffs.

The muffs shall be of the same quality as those provided to runway personnel at major airports.

The following mitigation should be added to the DEIR to reduce the impact of noise on ICF residents and staff:

Mitigation: In the event that the ICF is sited on the Musick property, the ICF shall include an interior recreation area which is the same size as the outdoor area which would be provided if exterior noise levels were acceptable. The area shall be constructed prior to issuance of

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the occupancy permit. The noise level in the recreation area shall be consistent with the exterior noise standard.

Mitigation Measure 39 should be modified as follows:

Mitigation 39: Prior to establishing the Interim Care Facility at this site, the County of Orange Health Care Agency shall determine whether the noise environment is acceptable with the therapeutic mission undertaken at this facility. If the noise environment is found to be unacceptable, the County shall not locate the facility at this location. An acceptable location for the facility shall be found, constructed and occupancy permits received, prior to demolition of the existing ICF facility.

5.5.4 Level of Significance After Mitigation

Project Impacts. Pending completion of a corrected noise analysis and adoption of the mitigation measures listed above, the following project impacts should be classified as significant unmitigated impacts: construction traffic noise, project contribution to violations of land use compatibility standards, noise impacts to ICF residents and staff, noise impacts to inmates and Musick staff engaged in exterior activities.

Cumulative Impacts. Pending completion of a corrected noise analysis and development and adoption of cumulative noise mitigation measures, the following cumulative noise impacts should be classified as significant unmitigated cumulative impacts: noticeable increases in noise associated with cumulative development, the contribution of cumulative development to violations of noise land use compatibility

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standards, and the introduction of cumulative development into areas with unacceptable noise levels.

5.6 Biological Resources

In its effort to avoid disclosure of potential biological resources, the DEIR apparently failed to conduct *any* study of biological resources currently found on the project property. While the biological resources discussion is fatally flawed by virtue of that fact alone, it is insufficient under CEQA for the following reasons as well:

- The DEIR fails to address impacts to known biological resources located adjacent to one of the conveyance parcels, on or near the Alton Parkway site, or which would be disturbed during the construction of the storm drain required by the project.
- The DEIR fails to include a wetlands delineation.
- No consultation with responsible agencies was conducted to determine whether agricultural use of the 39 conveyance acres will be permitted.

5.6.2 Environmental Setting

Page 102. The DEIR should summarize the key findings of EIR 447 and the FCPP EIR pursuant to Section 15150 of the CEQA Guidelines. It is inappropriate to make the reader refer to those documents in order to get the necessary information regarding potential biological resource impacts. The DEIR's reliance on these documents, moreover, is inappropriate in any case. EIR 447 was written a decade ago for a project which was not implemented. The FCPP EIR is also dated, having been certified in 1988. A biological resources assessment must be conducted to update the information contained in these out-of-date documents and to address the full project.

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At a minimum, the setting section should include discussion of: existing plant and animal habitat, and sensitive plant and animal species on the project site and in the project vicinity; wetlands and the wetlands regulatory framework; and the NCCP. None of this information is provided.

Page 102 — Project Impacts Prior to Mitigation. As part of the preparation of the biological resources assessment, significance thresholds will need to be established for potential impacts to sensitive, threatened and endangered plant and animal species, habitat impacts, impacts to the NCCP, wetlands impacts and other applicable biological resources impacts.

5.6.1 Project Impacts Prior to Mitigation

Pages 102-103. The conclusion that the project site has no remaining natural resources is inappropriate and unsupported, particularly given the fact that:

- No biological resources study was prepared for the project, even though one was requested by the California Department of Fish and Game in response to the NOP.
- The existing Musick facility is located adjacent to Natural Communities Conservation Program (NCCP) reserve area. (See Exhibit 24, which for some reason is located in the Land Use section, rather than the Biological Resource Section of the DEIR.) Endangered and sensitive species have been recorded within 500 feet of the existing site boundary. Given that much of the existing site is used for agricultural production, or is open space, the potential for sensitive bird or other species to visit or nest on the site is great.

- The proposed project includes the extension of Alton Parkway, and as indicated in the Setting discussion, Borrego Wash will be affected by construction of Alton Parkway.
- The proposed project will require construction of a storm drain. Potential storm drain impacts must be considered, even though an EIR for the FCPP addressed storm drain construction, for at least two reasons: (1) construction of the storm drain is required to mitigate potential project impacts, and the impacts associated with project mitigation must be analyzed pursuant to Section 15126 of the CEQA Guidelines; and (2) the storm drain is a foreseeable future project contributing to cumulative impacts (*See San Joaquin Raptor/Wildlife Rescue Center v. County of Sanislaus*, 42 Cal.App.4th 608).
- The proposed project includes two conveyance parcels totalling 39 acres. One parcel abuts the NCCP. The sheriff seeks to use this parcel for agricultural purposes in the near-term future, and possibly for development in the longer-term future. As shown on Exhibit 24, endangered and sensitive species have been recorded directly adjacent to the site.
- The DEIR does not mandate compliance with mitigations included in the two EIR's cited.

A biological resources assessment for the full project, which includes the information requested by the California Department of Fish and Game, must be prepared and the findings included in the DEIR.



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Even without an updated biological resources assessment, the DEIR provides sufficient information to conclude that the project will result in significant biological resource impacts which have not been acknowledged in the DEIR. (See Exhibit 24.) As discussed below in the Recirculation section, curing this defect will require recirculation of the DEIR.

140 If impact judgments are based on reliance on unimplemented mitigation measures specified in prior environmental documents, the DEIR must include a discussion of whether the mitigation measures are still viable (both feasible and still appropriate given changes in the setting due to the passage of time) and the mitigation measures must be specified as project mitigations in this EIR.

The DEIR should include an impact reducing alternative including construction of only a one-half section of Alton Parkway, given the DEIR's indication that this would reduce project impacts. This alternative should receive full analysis.

The DEIR does not include any information to substantiate the claim that "mitigation is feasible off-site." Such information should be included in the DEIR.

It would appear that portions of the biological resources discussion have been included in the Land Use section (see pages 118-119). This information, particularly Exhibit 24, should be moved to the biological resources section.

141 Page 103 — Cumulative Impacts. The EIR must include a discussion of cumulative impacts on biological resources. The discussion of cumulative impacts should address cumulative loss of habitat, impacts to sensitive, rare and endangered species, cumulative wetlands loss, and cumulative NCCP impacts.

5.6.3 Mitigation Measures

Page 103. Mitigation measures should be organized under subheadings indicating the impact addressed by each mitigation.

If mitigations from prior EIRs are required to mitigate impacts, these mitigation measures must be included in this EIR.

Mitigation measures will be required for significant impacts to: sensitive, rare and endangered plant and animal species; habitat; the NCCP; wetlands impacts; and other applicable biological resources impacts.

The following mitigation measures should be implemented pending completion of the biological resources assessment for the full project:

Mitigation: Prior to the certification of the EIR, a biological resources assessment and surveys shall be conducted for the full project (existing Musick site, Alton Parkway Extension, conveyance sites, drainage and other improvement areas) which document evidence of any special-status plant and animal taxa, sensitive plant communities, wetlands, and other significant biotic features. Mitigation and preservation plans shall be developed in cooperation with the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG) and other applicable agencies. The studies, surveys and plans shall be circulated for public comment for a period of 60 days.

Mitigation: Prior to certification of the EIR, a biological consultant to the County (a qualified restoration ecologist) shall submit the Musick Jail Biological Resources Management Plan (BRMP) to the EMA/Director

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of Planning, for review and approval. The BRMP shall establish construction and use timing, limits, and other procedures to ensure the protection of resources scheduled to remain, as well as replacement of resources impacted by the project. The BRMP shall contain drawings, plans, and references to the roadway, drainage and facility final design plans and an agricultural use plan which demonstrate satisfaction of mitigation elements to be constructed. The BRMP shall also include the following:

- a. An Interim Habitat Loss Mitigation Plan (component of the BRMP) for Scrub, Grassland and other habitat resources on the full project site (jail, conveyance parcels, drainage improvement areas, and Alton Parkway extension) for submittal to the USFWS for their review and approval, shall address compliance with the Natural Communities Conservation Planning (NCCP) program, the NCCP Scrub Habitat Loss Process and Federal Endangered Species Act 4(d) Special Rule for Incidental Take of the California Gnatcatcher, Cactus Wren and any other applicable species. The following specific standards shall apply:
 - Impacts to Coastal Sage Scrub are to be minimized or avoided, where practical. Impacts to specimens of Cholla or Prickly-pear Cactus are to be avoided where practical, and specimens unavoidably

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impacted shall be relocated to areas outside of the development envelope and into areas which are expected to receive long-term preservation. (The intent is to provide habitat which will benefit Cactus Wren populations located elsewhere in the region.).

- Construction staging areas are to be planned and positioned in non-sensitive habitats, and sensitive areas are to be flagged to reduce potential for disturbance.
- Grading or agricultural activities of any kind shall be prohibited during the breeding and nesting season of the California Gnatcatcher and Cactus Wren (February 15 through July 15, or as modified by the USFWS). A note shall be placed on all applicable improvement plans (Plans and Specifications) to this effect.

- b. Impacts to jurisdictional wetlands habitats are to be mitigated through a revegetation/restoration program such that there is no net loss of habitat, and in a manner that is satisfactory to the EMA Director of Planning in consultation with the USFWS and CDFG. Revegetation communities shall be of an equal or higher habitat value to that which is lost.

- c. Impacts to oak trees with a diameter at breast height of 5 inches or greater, are to be avoided to the extent practical. If any oak trees of this size would be lost, re-establishment of oak trees within the existing stand is to be accomplished at a replacement rate which may vary with the size of the tree lost. The replenishment is to be carried out in a manner that is satisfactory to the EMA Director, in consultation with CDFG and USFWS.
- d. Impacts to walnut trees with a diameter at breast height of 3 inches or greater are to be avoided to the extent practical. If any walnut trees of this size would be lost, re-establishment of walnut trees within the existing stand is to be accomplished at a replacement rate which may vary with the size of the tree lost. The replenishment is to be carried out in a manner that is satisfactory to the Director, EMA, in consultation with CDFG and USFWS.
- e. No construction or agricultural use is to be planned or carried out adjacent to riparian woodlands in the spring breeding season (roughly March 1 through July 1), in order to avoid direct impacts to sensitive species, as well as potential indirect impacts to noise-sensitive species, which may occur in the vicinity.

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- f. The BRMP also shall be circulated for public comment for a period of 60 days prior to certification of the EIR.

5.6.4 Level of Significance After Mitigation

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Project Impacts. Pending completion of the biological resources analysis, impacts to sensitive, rare and endangered plant and animal species; habitat; the NCCP; wetlands impacts; and other applicable biological resources must be considered significant and unmitigated.

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Cumulative Impacts. Pending completion of the biological resources analysis, cumulative impacts to sensitive, rare and endangered plant and animal species; habitat; the NCCP; wetlands impacts; and other applicable biological resources must be considered significant and unmitigated.

5.7 Light, Glare, and Shadow Effect

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5.7.1 Environmental Setting

Page 104. We have no comments on this section.

Page 104 — Thresholds of Significance. The DEIR should include thresholds of significance for potential light and glare impacts.

5.7.2 Project Impacts Prior to Mitigation

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Page 104. The DEIR must contain an analysis of impacts if Complexes 1 and 2 are raised 3 to 4 feet in height, as discussed at page 57 of the DEIR. The Shadow Plans (Exhibits 19 and 20) also fail to disclose shadow impacts from project fencing.

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Page 104 — Cumulative Impacts. The EIR must include a discussion of cumulative impacts on light, glare and shadow effect. This section should address the

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potential impacts of cumulative development on the level of light and glare in the area and the impact on any resources in the area impacted by increasing light and glare.

5.7.3 Mitigation Measures

Page 104. Mitigation measures should be organized under subheading indicating the impact addressed by the mitigation.

5.7.4 Level of Significance After Mitigation

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Project Impacts. The existing discussion should be organized under a subheading for project impacts.

Cumulative Impacts. The DEIR should indicate whether cumulative development in the area is likely to result in any significant unmitigated cumulative impacts.

5.8 Land Use and Relevant Planning

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Page 107. The defensive tone of the first two paragraphs is inappropriate. As noted in paragraph two, pursuant to the applicable standard of review, the conclusions in the DEIR must be supported by substantial evidence. The DEIR does not meet this standard, as the City amply documents in its comments.

5.8.1 Environmental Setting

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Page 107-109. The DEIR should discuss the zoning and General Plan land use designations for the other sites that make up the project. Although the existing Musick site, Alton Parkway and the Borrego Wash parcels are discussed, the conveyance parcels are not included in the discussion. It should be noted that the discussion recognizes that Alton Parkway and Borrego Wash are components of the project.

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Pages 109 - 115. Again, in discussing the Irvine General Plan the DEIR should discuss the zoning and General Plan land use designations for the full project.

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Page 115. The City of Lake Forest passed a resolution on September 3, 1996 indicating the City Council's concerns about the negative impacts associated with a maximum security jail facility and opposing construction of such a facility in close proximity to residential neighborhoods. The proposed project would be located in close proximity to residential neighborhoods. The City of Lake Forest is in the process of amending the City's General Plan to add a policy indicating that jail facilities should not be located in proximity to residential neighborhoods. This information should be added to the DEIR.

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Pages 115-120. Please see our comments under Public Safety regarding consistency with the AELUP. These comments should also be addressed in this section.

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Page 116. The FAA Part 77 study should be completed prior to the certification of the EIR, and all conditions imposed on the project as a result of FAA review should be included as project mitigations. The FAA Part 77 study and proof that the FAA finds that the project would be compatible with the reuse of El Toro should be included as appendices to the EIR. If the FAA review results in the identification of additional project mitigations which are necessary to reduce impacts, this would require recirculation of the DEIR. For the reasons discussed in Chapter VI, *infra*, the project also must be referred to the Orange County Airport Land Use Commission.

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Page 117. The DEIR should indicate that rezoning of the site is required because the predominant use of the parcel will no longer be "general agricultural." See Chapter VI, *infra*. The rezoning should be identified as a significant project impact.

The DEIR inappropriately classifies the jail facility as a hotel and/or hospital for purposes of analysis. The jail should be treated as a residential facility since the length of stay for inmates will generally be significantly longer than for hospital or hotel occupants. Furthermore, it is incorrect to state that no outdoor uses are included as part of the project. The ICF portion of the project includes outdoor recreational facilities, see Exhibit "RR," and minimum security inmates will engage in farming activity and other work chores outside of the structures. These exterior uses are incompatible with the existing noise ordinance. This incompatibility should be identified as a significant project impact.

The analysis must address the consistency of the project with both the existing military use of El Toro and the proposed reuse of El Toro. It is inappropriate for the DEIR to pick and choose which of these uses to discuss in order to minimize the potential impacts of the proposed project. Reuse of El Toro is likely to alter the location of the Clear Zone and Accident Potential Zones as well as the horizontal surfaces and height limitation areas around the El Toro facility. The analysis must address consistency with existing and future airport created restrictions.

Page 118-120. The discussion of the project's consistency with the NCCP is inaccurate, since the proposed project includes the two conveyance parcels, construction of the Borrego Wash improvements and the Alton Parkway extension. If the conveyance parcel adjacent to the NCCP will be used for agriculture and/or long-

term expansion, then the discussion of the project's setback from the NCCP will need to be corrected and the project's potential to significantly impact the NCCP will need to be addressed. These are significant impacts of the proposed project.

The DEIR must cite a reference for the information about the potential constraints imposed by reuse of El Toro.

Thresholds of Significance. The DEIR should include significance thresholds relating to project consistency with the County General Plan, the General Plans for the Cities of Irvine and Lake Forest, the NCCP, and airport regulations, plans and policies. It should also include significance thresholds for internal land use consistency.

5.8.2 Project Impacts Prior to Mitigation

Page 122. The fact that the proposed project would exceed the floor area allocation for Institutional land uses in Planning Area 35 should be classified as a *significant impact of the proposed project*. The proposed project does not meet the criteria established in Objective A-4 for allowing additional institutional intensity to be deemed consistent with the General Plan. The discussion should reflect the following:

- The proposed project is inconsistent with criterion (a) of Objective A-4 since all significant project impacts are not mitigated to a level of insignificance, as detailed in our comments.
- The proposed project is inconsistent with criterion (b) of Objective A-4 since the DEIR fails to demonstrate that infrastructure capacity under existing and future (buildout) conditions can accommodate additional development in the areas of circulation, fire, police, water and flood control services. Since the DEIR does not properly analyze the potential

impacts of cumulative development, it is not possible to make a finding that the required infrastructure capacity will exist. In addition, as indicated in the NOP letter from the Irvine Ranch Water District, there is the potential for the proposed project to create the need for additional off-site sewer facilities.

- There has been no showing that the project is consistent with criterion (c) of Objective A-4 which requires that development intensity under the adopted land use category be exchanged for intensity to accommodate institutional development in the areas of circulation, fire, police, water, and flood control services within the same planning area.

The discussion of the triangular parcel must be corrected to reflect the information contained in the Reuse Plan.

The DEIR has not demonstrated that its conclusion as to the project's compatibility with El Toro reuse is based on any authoritative documentation of the potential restrictions associated with reuse.

The restrictions on bail bondsmen and sexually oriented businesses should be made a project mitigation. If these measures are not put in place, then project impacts should be classified as significant.

Page 125. The discussion of compatibility with habitat plans must be corrected to address the potential impacts associated with the conveyance parcels.

The DEIR must include an analysis of the consistency of the location of the ICF on the Musick site with ICF citing criteria, as well as an analysis of the land use compatibility of the ICF and the jail.

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The DEIR should address the land use incompatibility associated with placing the jail in proximity to residential development. As part of this discussion, the DEIR should make reference to the City of Lake Forest resolution and pending General Plan amendment.

Cumulative Impacts. The EIR must include a discussion of land use planning cumulative impacts.

5.8.3 Mitigation Measures

Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation.

The following mitigation measure should be added to the DEIR to reduce to possibility of land use conflicts with reuse of El Toro:

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Mitigation: The County shall complete an FAA Part 77 study prior to certification of the EIR for the Musick Facility. The FAA Part 77 study and proof that the FAA has found that the Musick Facility will not conflict with reuse of El Toro shall be added as an appendix to the EIR prior to certification. Any mitigation identified by the FAA shall be added to the DEIR as mitigation measures. In the event that mitigation measures are identified by the FAA, the DEIR, FAA Part 77 study and FAA findings shall be recirculated for public review, prior to certification of the EIR.

The following mitigation measure will reduce the project's impacts on the NCCP.

Mitigation: Use of the conveyance parcel located adjacent to the NCCP will be prohibited. The parcel shall be set aside in perpetuity as a

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buffer between the jail facility and the NCCP land, and a deed restriction shall be recorded.

Mitigation Measure 42 should be expanded to provide greater protection from the development of land uses which are incompatible with residential uses.

Mitigation Measure 42: The County shall restrict the location of bail bondsmen and sexually oriented businesses within two miles of the jail facility on lands under the County's jurisdiction.

As part of the circulation of the DEIR, the County should have given notice of the proposed project to the FAA and any other agency that may have jurisdiction or review authority at some future time. The DEIR should provide a list of all such agencies and proof that these agencies received copies of the DEIR for review. Failure to provide any such agency with a copy of the DEIR for review constitutes grounds for recirculation. Mitigation Measure 44 should be reworded as follows:

Mitigation Measure 44: Prior to the certification of the EIR for the project, the County of Orange shall give notice of proposed construction to the Federal Aviation Administration (FAA) pursuant to FAA Part 77. Notice shall also be given to any other agency that may have jurisdiction or review authority. These agencies shall be provided with at least a 45-day review and comment period. If any such agency requests additional time to comment, it shall be granted. All comments received shall be addressed in the Final EIR for the project, prior to certification.

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5.8.4 Level of Significance After Mitigation

161 Project Impacts. The discussion should be corrected to indicate that project intensities are incompatible with the allowable intensities of Planning Area 35. This is a significant unmitigated impact. The project may also result in on-site land use incompatibilities associated with the ICF. In addition, the need to rezone the project site should be identified as a significant impact.

Cumulative Impacts. The DEIR should address the significant cumulative impacts associated with proposed development in the project vicinity.

162 5.9 Public Safety

The analysis of public safety impacts is fatally flawed because:

- It does not include credible support or sufficient evidence for the conclusions drawn.
- The analysis fails to adequately address potentially significant impacts to prisoners, staff and public safety due to insufficient staffing; crime associated with released prisoners and visitors; crime due to changes in the nature of the surrounding community resulting from location of a large medium and maximum security jail; escapes, including the indirect effects on the police forces of adjacent jurisdictions; the ICF and the location of the ICF in proximity to the jail; parking for the facility; and location of the jail adjacent to the airport.

163 Page 126. The 1986 Musick Master Plan EIR concluded that "The *greatest* impact that would be anticipated as a result of [a medium-maximum security jail] alternative would relate to public health and safety issues." (Exhibit "DD" at 6-35.) The

DEIR, however, asserts both that it need not address public safety impacts at all, and that such impacts will not be significant in any case. It is clearly wrong on the former point, and does not provide sufficient evidence to support the latter.

As to the question of whether CEQA applies to issues of public safety, potential threats to the physical safety of citizens can clearly constitute significant environmental impacts under CEQA. Section 15126(a) of the CEQA Guidelines specifically provides that an EIR should include discussion of significant environmental effects such as "health and safety problems caused by [relevant] physical changes." 14 Cal.Admin. Code Section 15126(a) (emphasis added). Moreover, Appendix G of the Guidelines provides that "[a] project will normally have a significant effect on the environment if it will . . . (v) Create a potential public health hazard. . . ."

The DEIR's comments as to CEQA exemptions for jail projects are irrelevant and inappropriate. The Legislature's willingness to exempt state prisons from CEQA reflects only the legislative decision that facilities should be brought on line despite any potential impacts – not an acknowledgment that such projects will not have any impacts ordinarily requiring CEQA review. Despite efforts by the County of Orange, the Legislature has refused to extend this exemption to jails, and full compliance with CEQA is required here.

Thus the DEIR's assertion that public safety information need not be included in the DEIR and is being provided simply "for public information purposes" clearly conflicts with CEQA. The DEIR *must* address whether construction of the jail facility will lead to any significant risk to the physical safety of citizens in the vicinity of the jail.

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In addition, effects such as vandalism, loss and damage of public and private property, and changes in property values and the consequent effect on the provision of public services, constitute physical effects subject to CEQA. These effects must be evaluated.

The DEIR should also summarize the key finding of the EIR's for the Long Term Jail, Katella-Douglass and Theo Lacy, pursuant to Section 15150 of the CEQA Guidelines. It is inappropriate to make the reader refer to those documents in order to get the necessary information regarding public safety. Furthermore, a review of the discussion in the Theo Lacy EIR indicates that the EIR in fact provides little additional information.

5.9.1 Environmental Setting

Pages 127 - 128. In addition to information on escapes from Musick, the DEIR should present escape information for all of the County's other facilities, along with a discussion of the degree to which each facility is similar to the proposed facility.

The existing Musick jail houses minimum security inmates in an honor-ranch type of setting. The proposed facility will house minimum, medium and maximum security prisoners in security cells. The existing and proposed facilities are not comparable, as the County explicitly recognized in its 1986 EIR. "The building design, security measures and staffing are also completely different [for a medium-maximum jail facility] from that presently in use or proposed for the Musick property." Exhibit "DD" at 6-35. Information for comparable facilities in the County, as well as state and national data on the rate of escapes per inmate and per bed should be provided for jails with the type of inmate mix anticipated for the proposed project.

165 Page 128. As indicated in the DEIR, the national average for staffing is one correctional officer for every four prisoners. The County operates its jail system with one correctional officer for every 10 prisoners. The DEIR should include an analysis which demonstrates the viability of County facilities operating with a lower staff level. The DEIR should demonstrate that the rate of escapes, injuries, and other problems at County jails is comparable, or better than the national rate. Otherwise, the DEIR should include a mitigation measure requiring staffing at the national rate. If the rate of problems at County facilities is less than, or comparable to, national rates, and this is due to the quality of the sworn and unsworn personnel and the training they receive, the DEIR should include mitigation measures to ensure that training and quality of personnel remains the same, or even improves. Otherwise the DEIR should identify potential project impacts on prisoner, staff and public safety due to insufficient staffing as significant.

166 Page 128. Since the system for notifying the public of an escape includes the involvement of the police forces of the adjacent jurisdictions, the proposed project may place intermittent burdens on the police forces of these jurisdictions. See City of Lake Forest Response to Service Letter (DEIR 564, Appendix "D"). This potential should be discussed in the impact analysis, and a mitigation measure included for this intermittent but significant impact.

167 Page 128 - 131. As noted in the DEIR, male and female inmates completing their sentences at Musick are currently transported and released in Santa Ana, if they do not have transportation. No such provision has been included for the proposed project. Since the inmates without transportation are the inmates most likely to spend

time in the immediate area following release, and are generally the inmates with the least resources, they are the inmates who are most likely to have the opportunity and motive to commit crimes in the area following release. The DEIR therefore may not conclude that there is no significant risk of crime due to the proposed facility based on data from the current facility, unless the DEIR includes a mitigation measure that would make the release situation comparable. The DEIR must therefore include a mitigation measure prohibiting released prisoners from walking off the facility, and which provides for their transport to the release facility in Santa Ana.

167 The conclusion that there will be no increase in crime associated with visitors to the facility is also invalid because the existing and proposed facilities are not comparable. It is likely that the type of people who visit minimum security inmates will be different from the types of people who visit medium and maximum security prisoners. As the types of crimes an individual commits change, so does the individual's peer group. The visitors of medium and maximum security prisoners are likely to be more dangerous and more prone to crime than those of minimum security prisoners. Unless the DEIR presents data from a credible study of the crime behavior of visitors to comparable facilities, which shows that no crimes are committed by visitors in the vicinity of such facilities (i.e. a study area sufficiently large to reflect the potential impacts to Lake Forest and Irvine), impacts must be considered significant.

Most importantly, the statistics quoted at the bottom of page 128 and top of page 129 regarding crime in the area of the Musick Jail are deliberately incomplete and misleading. At the bottom of page 128, DEIR 564 states that crime events within the vicinity of the Musick Jail "are unrelated to the inmates." At the top of the next page,

167 the DEIR states that 16,107 inmates were released from Musick in 1995, and suggests that none of these inmates were re-arrested in the vicinity of the jail. In truth, information prepared by the Sheriff's Department (and obtained by the City of Lake Forest in response to a Public Records Act request) shows that, of these 16,107 inmates released from Musick, 13 were re-arrested by Lake Forest police and 20 were re-arrested by City of Irvine Police. See Exhibit "L." This information, which was omitted from DEIR 564, completely undermines the analysis in this section. If even the minimum security inmates who presently are kept at the Musick facility are re-arrested in Lake Forest and Irvine, it can be reasonably foreseen that the situation will be much worse if the Musick facility is dramatically expanded and begins to house maximum security inmates.

168 Page 129. Again, we would request that the DEIR use proper incorporation by reference techniques. Any information that is germane to the analysis should be repeated in this DEIR. As previously discussed, conclusionary statements and references to the incorporated document violate CEQA Guidelines regarding incorporation by reference.

169 Pages 129 - 130. It should be noted that the studies of crime associated with the Main Jail Complex and Theo Lacy Jail did not address the question of crime associated with visitors. No conclusions regarding crime associated with visitors can therefore be drawn from these studies.

170 Page 130. The DEIR has not provided sufficient information to conclude that there is no greater crime rate within the area of Theo Lacy Jail than was experienced before the expansion was operational.

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The limited type of empirical evidence presented in the DEIR is not sufficient to conclude that there is no causal relationship between jails and crime. In order to make such a conclusion, a study which controls for all potential spurious and confounding factors by utilizing a true-experiment, a quasi-experimental design or mathematical controls, and which is based on a sample of the appropriate size and composition to both be able to detect significant relationships and to be able to generalize findings to the proposed facility, would need to be conducted - most probably a quasi-experiment with proper matching of communities with and without jails. The study should also ideally address the issue of visitor and released inmate crime rates. In addressing this type of crime, the study would need to include a defensible methodology for dealing with the fact that only a portion of the crimes which are committed are reported and only a portion of reported crimes are solved. Since released inmates and jail visitors would be more likely to leave the area after committing a crime, they may be less likely to be apprehended. Released inmates and jail visitors may also be more likely to commit the types of crimes which are under-reported. Thus, a very large sample size may be necessary in order to identify the significant relationship between inmates and jail visitors and crime, and the relationship between these two groups and crime rates in proximity to the jail. Unless these issues are addressed in the study design, the potential impacts of the jail are likely to be understated or not identified. In addition, a time-series study would need to be done to determine if jails lead to decreasing property values, resulting in a change in the composition of the community, and ultimately to the type of community which has higher crime rates, when constructed in proximity to communities such as Irvine and Lake Forest. The impact of jail

170 construction on crime rates may be 5-10 years in the making. However, this potential impact needs to be addressed. Pending completion and peer review of such a study or studies, the potential impacts of the project on crime in Lake Forest, Irvine and the parts of the County near the proposed facility should be classified as significant.

171 **Thresholds of Significance.** The DEIR should specify thresholds of significance for potential prisoner, staff and public safety impacts, including impacts associated with escapes, crime associated with release inmates and visitors, and impacts associated with air safety issues.

5.9.2 **Project Impacts Prior to Mitigation**

Our comments on the setting section identify significant project impacts that should be addressed in this portion of the discussion. The impact discussion should be modified in accordance with these comments to identify the significant impacts discussed therein.

172 **Pages 131.** Again, the evidence cited is not sufficient to establish the presence or absence of a causal relationship between jails and crime. First, the evidence provided does not address the question of visitors to the jail. Second, a personal conversation with one individual, with unspecified credentials, about one detention facility is hardly a sufficient basis on which to conclude that because "[m]any County jails are located in areas of mixed uses, and these areas are not always 'blighted' or 'crime-ridden,'" (emphasis added), jails and their visitors do not therefore contribute to these types of effects. (See prior comments regarding page 130).

173 **Pages 131-132.** According to the site plan for the facility, which should be included in this section of the DEIR, prisoner intake occurs in Complex 1. The DEIR

does not provide sufficient information addressing how the prisoners get to their cells or to the sallyport for transportation if they are housed in Complexes 2 or 3. It is unclear from the site plan whether the complexes are connected by walkways, fenced pathways, or underground passageways. Security measures associated with the movement of prisoners between complexes needs to be addressed. Pending inclusion of such a discussion, safety impacts associated with inmate movement within the facility should be considered significant.

In addition, the DEIR should address the issue of security measures associated with the transport of medium and maximum security prisoners to court or to the hospital. Pending inclusion of such a discussion, safety impacts should be considered significant.

In its 1986 Musick Master Plan EIR, the County concluded that among the many negative impacts of constructing a medium-maximum security jail on the Musick site, "[T]he surrounding residents would be subjected to greater risk associated with potential escapes." (Master Plan EIR at 6-35.) This DEIR has not provided sufficient evidence to conclude, contrary to the County's own former statement, that the proposed project will not affect public safety.

As discussed above in our comments on Section 4, the DEIR should provide data regarding the number of walk-aways from the ICF, gang affiliations, and crime associated with the ICF. Until this data is included in the DEIR, potential safety issues regarding the ICF remain significant.

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The DEIR should also address the potential safety issues associated with locating an ICF facility in proximity to a jail, particularly one that has prisoners engaged in farming activity on-site.

The Sheriff's substation will only benefit security if it is constructed prior to occupancy of the first complex. Absent a mitigation measure ensuring this order of construction, the conclusion is invalid.

The DEIR's purpose is to fully disclose all project impacts. Rather than emphasizing the fact that most serious offenders spend significant amounts of their time in prisons, the DEIR should concentrate on fully and accurately analyzing impacts related to their incarceration – even for limited periods – in local jails.

The fact that it may be politically unwise for an elected official to operate an insecure facility is not a proper basis for concluding that the proposed project will not pose any public safety threats.

The EIR for the Theo Lacy facility includes a mitigation measure requiring provision of "a special officer for the 8 peak hours of visiting on all visiting days for security of the parking garages and adjacent areas so as to reduce the number of calls for service to the Orange Police Department." This would imply the potential for significant safety impacts associated with facility parking. This should be identified as a significant impact and a similar mitigation included in this DEIR.

As noted above at the City's comments regarding pages 115-120 of the DEIR, both the Land Use and Relevant Planning section of DEIR 564 and this section of the DEIR should also address safety issues related to the proposed facility's location in proximity to the airport. There are two issues here: (1) whether the facility will result in

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passenger safety issues and (2) whether the location will expose potential inmates to potential airport related safety hazards. Notably, the incompatibility of locating an expanded jail facility at the Musick site because of aviation safety concerns was acknowledged by the County in Revised Subsequent EIR 499, prepared for the Theo Lacy facility. See Exhibit "AA" at 7. This issue improperly receives short shrift in DEIR 564.

Thus, as stated by the Airport Land Use Commission, in response to the NOP for the proposed project:

All of the project area is located within the AELUP Height Restriction Zone, which is based on the Federal Aviation Regulations Part 77, and on the 1981 MCAS El Toro AICUZ Study. In fact, nearly all of the proposed project area is located beneath the highly restricted Inner Horizontal Surface. A small portion of the project area (located at the northern corner) is beneath the 50:1 Approach Surface for Runway 25 at MCAS El Toro. A narrow portion located at the southeast boundary of the project area is beneath the 20:1 Conical Surface, and an additional portion lies beneath the 7:1 Transitional Surface which connects the Approach and Inner Horizontal Surfaces.

The discussion in the DEIR is unclear as to whether or not the proposed project is consistent with existing airport height restrictions. Page 55 of the DEIR indicates that without landform modifications, building heights in the eastern and northeastern

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173 quadrants of the site would be limited to 16 to 43 feet due to height restrictions which could be otherwise imposed due to aircraft operations, either military or civilian. Exhibit 7 shows the proposed project elevations and indicates that structures in these quadrants will be 45 feet high and will reach an elevation of 517 feet above mean sea level (MSL), but does not indicate which elevation (i.e. north, south, east or west) is given in the Exhibit. This is 2 feet higher than the 43 foot limitation, and 29 feet higher than the 16 foot limitation, cited on page 55. The DEIR does not provide information on how much grading will occur in these quadrants and what the existing, compared to future, MSL elevation will be throughout the site. Page 120 of the DEIR does indicate that "[n]one of the proposed structures exceed the Horizontal Surface Elevation of 533 feet above mean sea level (MSL) for the current military operations or 517 feet MSL for a commercial aviation alternative." However, no reference is given for these height limits or authority cited for the 517 feet above MSL restriction with commercial operations. Given that project structures will reach the 517 feet above MSL height threshold, and the fact that reuse of El Toro for commercial operations is proposed, a more detailed analysis is required. The DEIR should show the existing (with military use) and future (with reuse) height restriction contours on the site, overlaid on a site plan which shows proposed project building heights (in the same units of elevation). The DEIR should cite which authority has established the "with reuse" height restrictions. Pending completion of the necessary analysis, safety hazards associated with air space should be classified as significant.

The NOP letter from the Airport Land Use Commission also indicates that "a small portion of the project area (located at the northern corner) penetrates the highly

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restricted AELUP Accident Potential Zone I, which applies planning criteria for "Considerable Crash Hazards." The DEIR on page 118 indicates that "the proposed buildings are outside the Clear Zone and Accident Potential Zones I and II for the existing military operations," yet no map is included, nor is any authority cited, to substantiate this. In addition, the DEIR does not address the potential changes in the Accident Potential Zone definitions which may result from reuse of El Toro. This information should be included in the DEIR. Even if structures are located outside the Accident Potential Zones, if farming activities occur in these Zones, the proposed project may expose inmates to risks associated with air accidents. Pending a more complete analysis, safety hazards associated with air-related accident potential should be classified as significant.

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Cumulative Impacts. The EIR must include a discussion of cumulative impacts addressing potential changes in safety associated with cumulative development, including impacts on crime rates, policing services and air safety related issues.

5.9.3 Mitigation Measures

Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation.

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The following mitigation measures would reduce the potential for impacts associated with escapes:

Mitigation: The Sheriff's Department shall demonstrate that the full "First Defense Fence" has been constructed prior to the issuance of any occupancy permits for the proposed project.

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Mitigation: To the extent permitted by California law, all medium and maximum security inmates shall make their court appearances from the facility using video appearances. There shall be no transport of medium or maximum security prisoners to court appearances.

The DEIR should include a mitigation measure to address the fact that the proposed staffing is inconsistent with national staffing levels. A mitigation, such as the one listed below, would reduce safety impacts associated with staffing levels:

Mitigation: The Sheriff's Department shall demonstrate that staffing will be consistent with the national average of one correctional officer for every 10 prisoners, prior to issuance of the occupancy permit for the facility.

Since the system for notifying the public of an escape includes the involvement of the police forces of the adjacent jurisdictions, the proposed project may place intermittent burdens on the police forces of these jurisdictions. The following mitigation will reduce this impact:

Mitigation: In the event of an escape, the County shall compensate the Cities of Lake Forest and Irvine for all costs associated with their policing efforts related to the escape.

The following mitigation measure would reduce impacts associated with prisoners walking away from the facility as well as potential risks associated with prisoner releases:

Mitigation: During the operation of the Musick facility, the County and Sheriff agree to transport all inmates to the Intake Release Center in

Santa Ana for release, and there will be no off-street jail booking of inmates. Off-street bookings are defined as any new pre-arraignment arrestee presented by law enforcement authority and physically accepted into a jail's booking process. In addition, there will be no cite-and-releases performed at the facility.

The following mitigation would reduce impacts resulting from the increased policing demands associated with visitors to the facility and the jail's general impact on the crime rate:

Mitigation: The County shall provide funding for six additional officers for the City of Lake Forest.

The following mitigation would reduce impacts associated with the movement of prisoners within the facility:

Mitigation: The project design shall include fenced pathways or underground passageways for the movement of prisoners between structures at the facility. No medium or maximum security prisoners shall be moved except in a secured vehicle or by means of the secured pathways or passageways.

The EIR for the Theo Lacy facility includes a mitigation measure requiring provision of a special officer for security of the parking garages and adjacent areas. Provision of a similar mitigation measure would reduce parking safety impacts for the proposed project. The number of officers provided should be proportional to the relative size of the Musick facility:

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Mitigation: The Sheriff's Department shall provide 6 special officers for the 8 peak hours of visiting on all visiting days for security of the Musick parking garages and adjacent areas.

The following mitigation will help to reduce the potential for air safety related impacts:

Mitigation: Prior to the certification of the Musick EIR, the County shall submit to the FAA a Notice of Proposed Construction or Alteration (FAA Form 7460-1) and supporting documentation for review and approval. The submittal and the FAA approval of the project design shall be included in the Final EIR. In the event the FAA requires modification of the proposed project, the County shall prepare and circulate a Supplemental EIR for the proposed project.

The following mitigation will help to ensure the security benefit of the proposed Sheriff's substation:

Mitigation: The County shall complete construction of the Musick Sheriff's substation, and occupancy permits for the station shall be drawn, prior to the issuance of the construction permit for the first phase of construction of the jail. The substation shall be operational prior to the issuance of the occupancy permit for the first phase of the correctional facility.

The County's Settlement Agreement with the City of Orange concerning the Theo Lacy expansion included a number of mitigation measures which are not reflected in the DEIR. Since these measures were intended to mitigate the

public safety and other impacts of a similar jail facility within the County, the same type of mitigations would be required for the impacts of the proposed project. These mitigations should therefore be included in the DEIR for the proposed project, modified as necessary to reflect the larger size of the proposed facility and the representations made about the facility:

Mitigation: The Musick Jail project will result in an inmate population not in excess of the 7,584 rated beds or an actual population of 9,859 in the case of "emergency" or "unusual circumstance." An emergency shall be an event out of the control of the County and/or Sheriff, including and limited to a natural or man-made disaster such as earthquake, fire, or flood. Emergency shall not mean jail overcrowding in County facilities or delay in, or restraint upon, the construction of other jail facilities. An "unusual circumstance" shall include, but not be limited to, major law enforcement actions or riots in another jail facility in the County of Orange. Unusual circumstances shall not mean jail overcrowding in County facilities or delay in, or restraint upon, the construction of other jail facilities. An emergency or unusual circumstance shall not exceed 60 days, for each such event. In each instance of an emergency or unusual circumstance which results in an increase in the inmate population above 7,584, the Sheriff shall, within two City business days following such an increase, provide written notice to the City Managers of the Cities of Lake Forest and Irvine stating the reason for the increase and the estimated number of inmates to be housed in the facility as a result thereof.

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Mitigation: The County and Sheriff agree that this is the final expansion of Musick Jail forever and that neither the County nor the Sheriff will ever seek to expand Musick Jail (including any adjacent or contiguous County-owned properties) beyond a rated capacity of 7,854 inmates.

Mitigation: All prisoners housed at the facility upon completion of construction of the first phase of the project will be housed in cell buildings.

Mitigation: The proposed facility is intended as a mixed-security facility which will house minimum, medium and maximum security prisoners. At no time shall the share of maximum security prisoners exceed 30 percent of the inmate population. At no time shall the share of medium security prisoners exceed 30 percent of the inmate population.

5.9.4 Level of Significance After Mitigation

Page 133 - Project Impacts. The discussion of project impacts after mitigation on page 133 will need to be revised based on the comments above. In addition, the DEIR will need to include an analysis of the potential impacts of any new mitigation measures.

Cumulative Impacts. The DEIR should identify any significant unmitigated cumulative impacts, once the cumulative impact analysis is prepared.

5.10 Transportation, Circulation and Parking

In its efforts to conclude that there will be no traffic impacts from construction of the megajail, or that any impacts will be mitigated to insignificance, the DEIR relies on

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unreasonable assumptions about future conditions and fails to consider reasonably foreseeable impacts. Specifically, the traffic analysis is fatally flawed for the following reasons:

- The traffic analysis is based on assumed continued use of the El Toro military base at 1994 levels of operation, rather than on a reuse scenario. The traffic study, however, acknowledges that with reuse it "can be anticipated that trip generation will be significantly higher than the current military use." The traffic analysis thus significantly understates the potential for project impacts.

Proposed project traffic must be evaluated against the base of reasonably foreseeable cumulative projects. The County's failure to do so in EIR 464 is one of the specific reasons that EIR 464 was invalidated. See Exhibit "HH" at 11-13. Here, these projects must include a reuse scenario for El Toro. Since cumulative traffic including reuse will significantly degrade the level of service at intersections beyond that indicated in the current DEIR analysis, and a number of additional intersections are likely to be functioning at LOS D or below with cumulative development, the addition of project traffic would result in greater impacts than identified in the current analysis. In addition, given the magnitude of cumulative development and the difficulty of mitigating the impacts of such development, it is likely that with proper analysis a number of project impacts would be classified as significant and unmitigatable. Similarly, the cumulative impact analysis should include consideration of development of Irvine Planning Area 30, pursuant to the DEIR published by the City of Irvine.

The traffic analysis is also flawed for the following reasons:

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- The traffic analysis is based on the number of rated beds at the facility, rather than on the facility's capacity (130 percent of rated beds). Trip generation is therefore based on minimum staffing, inmate, and delivery levels, rather than on reasonably likely levels, particularly for the long-term. Potential impacts, and the effort required for mitigation, are thus understated.
- The traffic analysis does not include consideration of trips associated with prisoner release, or the use of the facility for cite-and-release activities. Trip generation is thus understated.
- The traffic analysis significantly understates the number of visitor-related trips. Trip generation is thus understated.
- The analysis does not discuss the potential impacts which may result from mitigation activities, particularly the taking of additional right-of-way.
- The traffic analysis should address the following issues: impacts to streets and intersections (including signal warrants), impacts to the CMP, impacts to local highways, impacts to freeways, impacts to public transportation, transportation safety issues, traffic associated with project construction, and internal circulation issues. The DEIR fails to adequately address impacts to local freeways, impacts to public transportation, project construction traffic related impacts, transportation safety issues and internal circulation.
- The traffic analysis fails to address the question of the possible variations on the extension of Alton Parkway and how partial or non-construction of

Alton Parkway will affect site access, trip distribution, project impacts, and circulation in the project vicinity.

The analysis must be redone to correct the deficiencies identified in these comments and provide accurate and unbiased conclusions as to project traffic impacts.

5.10.1 Introduction

Page 136. The DEIR should indicate the assumed growth factor used in the traffic analysis to arrive at projected future year traffic, so the reader may evaluate the reasonableness of the assumption.

Pages 136 - 138. The discussion of performance criteria should be moved under the heading of Thresholds of Significance.

Table I-2 from Appendix I should be included as part of a discussion of existing levels of service.

Pages 138 - 139. The fact that the El Toro Reuse EIR improperly deferred analysis of impacts and identification of mitigation is not a proper excuse for failing to provide a cumulative impact analysis meeting CEQA requirements. Project traffic should be analyzed against a base which includes reuse of El Toro.

Page 139. ADT is defined as average daily trips, not traffic.

5.10.2 Environmental Setting

Page 146. The DEIR should provide a table indicating the interim and long-range levels of service at the study intersections without the project.

Page 146. The DEIR should disclose the assumptions underlying the Trip Generation. Appendix I indicates the trip generation includes an ADT of 90 for delivery trucks. This ADT should be corrected to 180 to reflect 2-way trips. Either the DEIR or

the appendix should document the basis for assuming vehicle occupancy of 2.2 for visitor trips, and the basis for the calculation of the number of visitor trips. According to the Sheriff's Department, prisoners at Musick are each allowed two one-half hour visits per week. This would tend to argue for a vehicle occupancy rate of 1 visitor per car. The DEIR traffic analysis should be based on the worst case analysis under which each prisoner receives two visits per week, on separate days. At rated bed capacity, this would result in 15,168 visits per week, or 30,336 one-way trips per week. Since visiting is typically compressed into 3 days per week, the worst-case ADT for visitors would be 10,112 rather than the 926 ADT used for the analysis. Since the analysis is more appropriately conducted at the "crowded" capacity level, use of 10,112 ADT would represent a visitation rate of 77 percent.

Furthermore, the Trip Generation does not include trips associated with inmate releases and cite-and-release activities. Page 209 of the DEIR indicates that 60-80 inmates daily can be expected to be released. If prisoners are picked up from the facility this equates to 120-160 ADT associated with inmate release. If they are not picked up this results in a public transit demand associated with inmate release of 60-80 trips per day. If they are bused to Santa Ana, this would increase the number of bus trips per day. The traffic analysis fails to address these trip generation issues.

Page 147. The trip distribution should be modified to reflect the change in traffic distribution patterns that are likely to result from the congestion associated with El Toro reuse. Congestion associated with cumulative development may require modification of the study area.

The DEIR should also address the potential short-term traffic impacts associated with project construction. The DEIR should include an estimate of the construction schedule, truck trips, etc., associated with construction. As part of this, a map of the approved truck routes in the area should be included in the setting section.

185 The setting section should include a discussion of existing public transportation in the project vicinity, the degree to which public transportation is used by released inmates and cite-and-release persons. A breakdown should be provided of the share of released persons who leave the facility by transportation mode.

Setting information should be provided for LOS on local freeways in the project vicinity.

The DEIR should indicate whether or not a bike route is included on Alton Parkway, and the class of route.

The DEIR should provide a discussion of existing on-site and street parking.

186 **Page 151 — Thresholds of Significance.** The discussion of performance criteria from pages 136-138 should be moved to this page. In addition to thresholds for impacts to links, intersections and signal warrants, thresholds should be provided for impacts to public transportation, parking, for construction-related traffic, transportation safety issues, CMP and internal circulation.

5.10.3 Project Impacts Prior to Mitigation

187 The DEIR should address the potential for impacts to all the CMPHS components in the study area, not just El Toro Road at Trabuco Road. The DEIR should also provide a table indicating LOS for each of the CMPHS components, with and without the project, and for each of the Measure Materials.

The DEIR should address the potential for project-associated conflicts with bike riders if a bike route is included as part of the Alton Parkway extension.

The DEIR should address the potential for inmates engaged in farming activities on the conveyance parcel across Alton Parkway from the facility to be exposed to traffic dangers. The document should also clarify whether workers would be transported by bus, or would walk to the farming site.

The DEIR should also address the potential short-term traffic impacts associated with project construction. These include impacts associated with truck traffic and the potential conflicts associated with Musick Drive and Alton Parkway uses. Pending analysis, construction impacts must be considered to be significant.

The analysis should address the potential demand for public transportation by staff, visitors and releasees from the facility in order to facilitate planning by the OCTA. Impacts of the project on public transportation should be fully assessed and addressed in the DEIR, including the potential need for a route extension to serve the facility, bus operation issues and the need for additional bus services. Pending analysis, impacts should be considered significant.

The analysis should specifically address potential impacts on local freeways.

Pending analysis, impacts should be considered significant.

Page 169. The DEIR should analyze the potential impacts associated with non-construction of Alton Parkway or only partial construction. This should include an analysis of potential impacts to local streets and intersections for each phase of construction, assuming the Alton Parkway extension is not constructed.

The DEIR should include a table providing an hour-by-hour, 24-hour projection of parking demand, by type of demand (staff, visitors, etc.). This is not included in the Traffic Analysis in the appendix. Instead, unsubstantiated statements about peak hour levels are provided. The analysis should provide the required documentation.

88 The DEIR should provide an analysis of internal circulation on the project site. This should include discussion of emergency access to the site and the sufficiency of turn-radiuses, etc., for accommodating fire fighting equipment.

Based on the site plan, and the location of the sallyport, it would appear that the higher security inmates will be transported via Musick Drive, rather than Alton Parkway. The DEIR should clarify whether this is the case, and if so, whether this is reflected in the trip distribution and the analysis.

89 Pages 152 to 170. Based on Figure 4-32 in the El Toro Reuse EIR, it appears likely that additional project traffic impacts would occur with proper identification of cumulative projects. According to the Figure, portions of the following roadways within the Musick Jail traffic impact study area would experience major impacts under Alternative A in the reuse plan: portions of Trabuco, Jeronimo, Muirlands, Rockfield, and Alton Parkway. City and County traffic study guidelines indicate that when a project contributes greater than 0.01 to the ADT V/C ratio or the peak hour ICU value at locations where the LOS performance standard is not being maintained, the impact is considered significant. Substantially less traffic is required to generate a significant impact when intersections and links are already operating at or near capacity, as they would be with El Toro reuse traffic, than when they are operating well, as assumed in

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the traffic analysis for the proposed project. The traffic analysis must be redone to properly consider likely cumulative development.

Pages 169-170 – Parking. DEIR 564 also substantially understates the parking

demands of the facility and, as such, fails to acknowledge that a significant impact will occur because the proposed project has insufficient parking to meet the project's needs. According to the DEIR, only 1,525 parking spaces will be built to serve the jail portion of the proposed project. Ignoring the fact that the DEIR significantly understates the true capacity of the project, this is a ratio of approximately one parking space for every five inmates. If the DEIR analyzed parking in terms of true project capacity, there is less than one parking space for every six inmates.

According to the County's own studies, this is woefully inadequate parking for a jail facility. A 1986 County-commissioned study concerning jail spatial requirements stated that one space should be provided for every four inmates. See Exhibit "B" at 2. Much more recently, in the Sheriff's Department request for land to locate a 7,000-inmate jail at the El Toro MCAS, the Sheriff's Department stated that parking for 3,500 vehicles would be required, i.e., one parking space for every two inmates. See Exhibit "Q" at 6. Accordingly, the parking proposed for the Musick megajail is clearly inadequate. Because the DEIR states that parking will not be allowed on Alton Parkway (DEIR 564 at 42), it is reasonable to expect that visitors coming to the jail will park in surrounding neighborhoods in the cities of Irvine and Lake Forest and walk to the jail. Such on-street parking by jail visitors will only increase the negative impacts that will be experienced by the surrounding neighborhoods because of the jail construction.

190 Accordingly, DEIR 564 must acknowledge the significant, unmitigated impact because of inadequate parking, and the likelihood of on-street parking in surrounding areas must also be acknowledged and addressed in the socioeconomic impacts discussion in DEIR 564.

191 **Page 170 — Cumulative Impacts.** The discussion of cumulative traffic impacts should include a listing of all links and intersections that would be significantly impacted by cumulative development, including reuse of El Toro and development of Irvine Planning Area 30. If mitigation measures for impacts have not yet been adopted, impacts should be identified as significant unmitigated cumulative impacts. A full list of impacted intersections and links should be included in the summary table.

5.10.4 Mitigation Measures

192 The following comments are based on the analysis presented in the current DEIR. As we have indicated above, the analysis is fatally flawed for a number of reasons, including an inaccurate trip generation calculation and the failure to include the reuse of El Toro in the analysis. Once the analysis has been corrected, and the DEIR recirculated, the City will have additional comments on the mitigations contained in the revised analysis. Pending completion of the revised traffic analysis, we offer the following comments on the mitigations for traffic impacts.

193 **Pages 170-172.** The DEIR should provide subheadings to indicate which impacts each mitigation measure is addressing. A full listing of mitigation measures should be included in the summary table, and should be linked to specific statements regarding the impacts being mitigated.

Mitigation: The County shall commit to full funding of all traffic mitigation measures. Barring demonstration of a full commitment, jail occupancy permits shall not be issues.

Mitigation Measures 45 and 46. Bake Parkway/Irvine Blvd. The dedicated right-turn-only lane may be better off with a "right-turn overlap" signal phase, thus leaving the third lane straight-through only. The DEIR should investigate the viability of this mitigation configuration.

In order to construct the right turn lane at Bake Parkway/Irvine Boulevard, additional right-of-way will be necessary. The taking of the right-of-way will result in significant impacts to the viability of the existing commercial center on that corner, since the center does not have sufficient off-street parking. The EIR should address the impacts resulting from implementation of the mitigation measures.

For each mitigation measure, the DEIR should indicate whether or not the mitigation will require the taking of right-of-way and address any impacts associated with the taking.

Mitigation Measure 45. The measure should be reworded as follows:

Prior to issuance of the occupancy permit for the first phase of the project, the Director of Public Works shall demonstrate that the following improvements have been installed:

Mitigation Measure 46. The measure should be reworded as follows:

Prior to issuance of the occupancy permit for the last phase of the project, the Director of Public Works shall demonstrate that the following improvements have been installed:

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The DEIR must include the following mitigation measure to ensure that the Alton Parkway access is installed prior to occupancy of the first phase of the project:

Mitigation Measure: No occupancy permit for the facility shall be issued, prior to the completion of the Alton Parkway extension and access to the facility.

The DEIR must include the following mitigation measure to ensure that access to the facility is as described and analyzed in the DEIR:

Mitigation: Only access to the Sheriff's Southeast Station and the ICF shall be permitted from Bake Parkway. Only deliveries to the jail shall be permitted from Musick Road. All inmate buses, visitors, all inmate access and egress, and staff shall enter the facility at the Alton Parkway access; access from other roadways shall be prohibited.

The following mitigation measure will help to reduce impacts associated with visitor traffic and public service impacts:

Mitigation: The Sheriff's Department shall limit visitation to the following schedule: Mondays through Fridays from 9:00 am to 3:00 pm. No visitation shall be permitted on weekends.

Mitigation Measure 49. The measure needs to be modified to reflect that the improvements must be made prior to the issuance of the occupancy permit for the first phase of the project.

Mitigation Measure 50. The measure should be reworded as follows:

Prior to issuance of the occupancy permit for each project phase, the Sheriff's Department shall . . .

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The DEIR needs to add a mitigation measure requiring submittal of a construction traffic management plan prior to the start of construction. The plan should specify approved truck routes, identify the need for any closures or rerouting, and should be approved by the cities of Irvine and Lake Forest as well as GMA 9.

The DEIR needs to add a mitigation measure to ensure that adequate public transportation is provided to the site and that funding is available to pay for the increased transit service. Otherwise, public transit impacts should be classified as significant unmitigated impacts. The following mitigation measures should be added to the DEIR to reduce potential public transportation impacts of the proposed project:

Mitigation: Prior to issuance of the occupancy permit for the first phase of the jail, and each phase thereafter, the County shall work with the Orange County Transit Authority (OCTA), a separate legal entity, to review and revise the bus schedules to and from the jail facility to expedite the transportation of visitors, staff and others accessing or egressing the jail, to ensure adequate public transportation to the facility. As necessary to achieve the required level of service, the County shall subsidize the provision of services to the facility.

Mitigation: The County shall request that OCTA permit the County to install a bus bay and stop near the visitor's entrance to the jail as part of the first phase of construction, and the County shall pay for the cost of the bus bay and stop.

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5.10.5 Level of Significance After Mitigation

Project Impacts. This section will need to be rewritten once the analysis is corrected to account for anticipated cumulative development and to address potential traffic impacts inadequately considered in the DEIR (e.g., emergency access, mitigation impacts, construction traffic, public transportation and freeway impacts). It is likely that unmitigatable impacts may be identified in the revised analysis.

Cumulative Impacts. As discussed above, the DEIR must include analysis of El Toro Reuse, rather than basing the project analysis on the No-Project Alternative for El Toro. The lack of specific detail about a future project provides no basis for refusing to include it in a cumulative impact analysis. (*Terminal Plaza Corp. v. City and County of San Francisco*, 177 Cal App.3d 892 (1986). See also Exhibit "HH" at 11-13. The DEIR must add a complete list of all unmitigated cumulative impacts once the analysis is corrected to account for reuse of El Toro. Given the fact that the Reuse EIR does not specify mitigation for reuse impacts, cumulative impacts must be considered to be significant, and the Musick DEIR must examine reasonable options for mitigating or avoiding any significant cumulative effects of the project, pursuant to Section 15130 of the CEQA Guidelines.

5.11 Public Services and Facilities

5.11.1 Environmental Setting

Page 173. The DEIR must summarize the key finding of EIR 447 regarding public services and facilities. It is inappropriate to make the reader refer to those documents in order to get the necessary information regarding public services.

15 Additionally, EIR 447 is a decade old. The information contained in that EIR is dated and should not be relied on for this EIR.

Page 178 — Thresholds of Significance. Thresholds of significance should be provided for each of the public services discussed.

5.11.2 Project Impacts Prior to Mitigation

196 The analyses underlying the DEIR's conclusions regarding the proposed project's service requirements are based on incomplete and inaccurate information about the project. Each of these analyses must be redone to consider the entire project and crowded project capacity. Each of the discussions will need to be modified accordingly.

Page 178-179 - Law Enforcement. As noted in the DEIR, the City of Lake Forest has indicated that the proposed project will result in the need for another 24-hour shift in the project vicinity, resulting in the need for one sergeant and five patrol officers. However, the DEIR does not identify this as a significant project impact, as it should. In addition, the DEIR does not include a mitigation measure for this impact.

197 **Page 179 - Fire Protection.** The letter from the Orange County Fire Authority (OCFA) clearly indicates that the proposed project will result in significant impacts to fire services, although the Authority requires additional information about the project in order to be able to specify the specific facilities or staff required to meet project demands. The DEIR should include discussion of the following fire protection impacts identified by the Authority in its letter included in Appendix D of the DEIR:

- The proposed increase from 1200 minimum security to 7680 maximum security inmates will increase the demand for emergency medical

services. The increase in inmates will also increase the number of support staff, visitors and deliveries and will have on-site traffic impacts which will affect OCFA's service delivery. This is a significant impact, which will be even greater when full "crowded" capacity is considered.

- The addition of permanent buildings will also increase the need for fire protection services including: structural firefighting, potential false alarm responses and fire prevention/inspection services. This is a significant impact.
- The project will negatively impact the current facility and service expansion plans for the project area. The current temporary station was located on Parker to serve the adjacent light industrial community. A large facility housing 8,000 inmates was not a consideration during placement and staffing of this station. The project will necessitate additional facilities and staffing, although further information/analysis is required to provide an accurate assessment of the magnitude of the impact. This is a significant impact of the project.
 - Potential problems in serving the project include:
 - a. The fire protection water distribution system (fireflow and pressure requirements).
 - b. The facility layout as related to emergency access.
 - c. The impact on service delivery to the site from OCFA's temporary fire station.

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- d. The impact on service delivery to adjacent areas due to increase service demand to the site and additional traffic generated by the project.

These are all significant impacts.

Water Facilities. Mitigation measures for the project should include mandated construction of the third on-site service connection prior to expansion.

198 The NOP letter from the Irvine Ranch Water District included in Appendix C of the DEIR indicates that use of capacity in excess of the present IRWD/County agreement for the Musick site will require the purchase of additional capacity by the County. This should be discussed in the DEIR.

The IRWD requested that the DEIR evaluate the use of nonpotable water for agricultural use and for landscape irrigation, and toilet/urinal flushing in new buildings through construction of an on-site dual distribution system and dual piping in all buildings. No such discussion is included in the DEIR. This discussion should be added.

199 **Page 181 - Public Transportation.** Our comments regarding potential public transportation impacts are included in the transportation and circulation section comments. The DEIR should provide documentation that the OCTA has been contacted and does not anticipate impacts. The County should provide the OCTA with revised information regarding the project description and potential ridership demand.

200 **Public Park Impacts.** Section 5.11 of DEIR 564 completely fails to analyze the impacts of the proposed project on public parks in the surrounding area. Such impacts

are foreseeable and significant. One of the technical studies prepared by the County for its long-term jail site selection EIR stated as follows:

“On weekends, visitors flock in great numbers to the current jail in Santa Ana, attracting vendors, shopping in local stores, and eating and letting their children play in the park across the street. With a jail in Coal and Gypsum Canyons, people envision large numbers of visitors picnicking in Featherly Regional Park and in the planned Weir Canyon Regional Park.”
Exhibit “BB” at 6.

Similar burdens will be placed on the parks in the vicinity of the Musick site, and an unmitigated significant impact must be acknowledged on public park facilities.

Cumulative Impacts. The DEIR should discuss potential cumulative impacts to each of the public services and utilities.

5.11.3 Mitigation Measures.

Mitigation measures should be organized under subheadings indicating the impact addressed by the mitigation.

Our public safety comments included a mitigation measure requiring the County to fund six additional officers for the City of Lake Forest. This will help to reduce the project's impacts on Lake Forest law enforcement.

The following mitigation measures should be added to the DEIR to help reduce the impact of the proposed project on the Fire Authority:

Mitigation: Emergency access, in accordance with OCFA specifications, shall be maintained to within 150' of all structures and shall be clearly identified. In addition, fire protection water, as approved by

OCFA, must be provided for all structures and at designated intervals along all interior streets/roads.

Mitigation: The project plans shall be submitted to the Orange County Fire Authority for review and approval prior to the issuance of any construction permits for the project. The County shall comply with any on and off-site improvements requested by the Orange County Fire Authority in reviewing the project plans.

Mitigation: The County shall not issue construction permits for the first phase of the project until such time as a permanent facility for the Orange County Fire Authority's fire station, which will serve the project, has been constructed and is in operation.

The following mitigation measures would help to reduce impacts associated with water facilities:

Mitigation: A third on-site domestic water service connection shall be installed prior to issuance of the occupancy permit for the first phase of the project. The connection shall be sized for ultimate domestic demands plus fireflow.

Mitigation: The County shall amend the sewer and water agreements with the IRWD to provide for adequate service to meet the needs of the project, prior to issuance of the construction permits for the project.

The following mitigation measure would help to reduce impacts associated with wastewater:

Mitigation: The County shall not issue occupancy permits to enable occupancy of the facility by more than 3,840 inmates, prior to the completion of the system improvements planned by the IRWD to accommodate year 2000 growth. Completion of these system improvements must be demonstrated prior to occupancy of the facility by more than 3,840 inmates.

202 Based on a similar mitigation measure contained in the Theo Lacy EIR (and adjusted appropriately for the site of the Musick project), the following mitigation measure would help to reduce impacts on public park facilities:

Mitigation: The County shall establish a special park fund for the benefit of the City of Lake Forest by the fiscal year immediately following commencement of construction of the first phase of the project. To such a special park fund, the County shall dedicate \$1,985,000 over the following six (6) years to assist the City in making improvement to City parks which are available for general public access.

5.11.4 Level of Significance After Mitigation

203 **Project Impacts.** Pending inclusion of the mitigation measures for Lake Forest law enforcement, impacts should be classified as significant. Similarly, impacts on fire services should be classified as significant. In addition, even with mitigation, public parks impact must be identified as significant.

204 **Cumulative Impacts.** We would anticipate a number of cumulative impacts due to the project in combination with El Toro reuse. The DEIR should include analysis of such impacts.

5.12 Socioeconomic Effects

205 Page 184. The DEIR understates the necessity for evaluation of social and economic effects under CEQA. First, as the DEIR recognizes, CEQA requires consideration of economic and social effects that result in physical impacts. CEQA Guidelines, 14 Cal.Code Regs. Section 15064(f). See *Citizens Association for Sensible Development of Bishop Area v. County of Inyo*, 172 Cal.App.3d 151 (1985). The DEIR fails to acknowledge that socioeconomic concerns must also be analyzed here because the presence of significant economic and social impacts – standing alone – demonstrates that the construction associated with a project constitutes a significant effect on the environment. See CEQA Guidelines, Cal.Code Regs. Sections 15064(f), 15131(b).

5.12.1 Environmental Setting

206 Pages 184-185. To support its ludicrous conclusion that there are no significant socioeconomic impacts associated with construction of the largest correctional facility in California 700 feet from existing residential neighborhoods, the DEIR relies on a study that is patently absurd. While the study's flaws are evident on the basis of simple common sense, expert opinion confirms the study's utter failure to support the DEIR's conclusion.

In the limited time allotted for public review of the DEIR, MAI appraisers Cedric A. White and Steven White (hereinafter referred to as "White") have performed a preliminary analysis of the study (attached hereto as Exhibit "R"), concluding that "the EIR inadequately considers the impact of the proposed facility on the surrounding area." *Id.* at 1. This analysis establishes that both the study's analytic techniques as well as its

conclusions are flawed, and that the project likely will have significant socioeconomic impacts resulting in adverse physical effects.

Addressing the most glaring error, White notes that the Tarantello report studied the impacts of the *announcement* of the proposed project, rather than the impacts of the project's actual construction. Even aside from the obvious fact that the mere announcement is "far less meaningful" (*Id.* at 2) than the reality of a megajail in the neighborhood, the study makes clear that much of the public may not even have been aware of the announcement at the time its supposed impacts were studied. Even those aware of the announcement, moreover, may not have believed that the construction would in fact become a reality given the County's past history concerning jail construction. As noted in the Tarantello Study included in DEIR Appendix L, at pages 8-9, within the last five (5) years County residents have seen the County Supervisors abandon the proposed Gypsum Canyon Jail project. In addition, County residents have seen the courts set aside the certification of the EIR for the proposed Katella-Douglass jail facility, and the County subsequently abandoned that site.

White further faults the study's statistical approach. The White analysis notes (in a point that should have been obvious to the DEIR drafters, or at least to the authors of the Tarantello study) that better information about the project's potential social and economic impacts could be obtained through interviews with owners/lessees in the project area, rather than through studying changes in residential sales prices and changes in lease rates prior to construction of the actual project.

In addition to these major deficiencies identified in the White analysis, the Tarantello study suffers from a host of other critical defects.

- The study only looked at the impact in the first 90 days following the April 24, 1996 articles in the Orange County Register and the Los Angeles Times Orange County edition regarding the Board of Supervisor's decision to consider the proposed project. Many escrows take ninety (90) days. Therefore, the study period did not even meet the minimum length of time necessary to detect even the effect of the preliminary announcement.
- The NOP for the EIR for the proposed project was not released until June 7 and the scoping meeting was not held until June 28, 1996, less than a month before the conclusion of the study period. Thus, the study was not sufficiently long even to observe the effect of the scoping meeting, the first formal local meeting on the project, on escrows of thirty (30) days or more.
- Given the very preliminary nature of the announcement, it is likely that a number of realtors did not feel a duty to disclose the potential for the jail expansion, since the expansion was so remote in nature and since it was not yet approved.

Furthermore, as shown in the broker/agent comments on pages 28-30 of the Tarantello Study, it is clear the announcement had failed to reach a number of existing and potential tenants. Out-of-area buyers would be even more likely to be unaware of the potential expansion.
- No sales were reported in Serrano Park, the nearest residential housing to the facility, during the study period.
- The study looked only at the change in property values, rather than at changes in the number of listings, the number of offers, the number of offer withdrawals,

default rates and the number of sales. These factors might be better indications of impacts during the study period.

Given the major deficiencies in the study, it provides completely inadequate support for the assertion that the project will not have any socioeconomic impacts of concern under CEQA.

Indeed, the study actually provides evidence to the contrary. Two of the seven industrial brokers interviewed for the study reported an impact.

- Steve Eberle of CB Commercial indicated that he "had strong negative opinions with respect to the proposed jail expansion and believed that prospective buyers were hesitant to make offers on this building and that the jail expansion was definitely a detriment to the marketing of this building." DEIR Appendix L at 29.
- Gary Allen of Grubb & Ellis stated that: "a government agency he had been working with had rejected office space located in the Pacific Commerce Center. The reason the government agency cited was concern over employee safety due to the expansion of the jail." *Id.* at 30.
- Four of the remaining five brokers interviewed indicated a lack of awareness on the part of tenants or owners of the proposed jail project.

In light of the study timing, it is remarkable that this level of impact was detected. Thus the study itself presents strong evidence that the proposed project will have a significant socioeconomic impact. See also Exhibit "BB" at 8-9 (County-commissioned study for proposed long-term jail indicating that the "overall view of the community is that the value of both existing and future development would be depressed if a jail were built in the vicinity.").

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The DEIR's reliance on the Theo Lacy Jail Expansion EIR to support its conclusion is similarly misplaced. The DEIR drafters themselves note that Theo Lacy is a different jail in another part of the country. As White concludes, the weight to be accorded the Theo Lacy EIR must be minimized in light of these two "substantial" differences. Exhibit "R" at 1. To the extent that the County wishes to rely on the Environmental Record concerning expansion at the Theo Lacy Jail, a far more relevant document is Revised Subsequent EIR 499, which expressly rejected expansion of Musick as it would result in land use impacts because of the following considerations:

"Existing single family residential areas are located within 700 feet of the Musick facility, to the east. . . . Development of the Musick complex facility would create greater impacts on residential land uses than the proposed project [at Theo Lacy]." Exhibit "AA" at 5.

Not surprisingly, after discussing the deficiencies in the Tarantello Study and the DEIR, the White analysis concludes that the megajail will in fact have significant socioeconomic impacts leading to physical effects. As to the business areas near the project site, the analysis explains that as a result of the jail construction, "Those seeking the desirable identity and prestige of this area would drop in number, and there would be an increase in owners/lessees for the industrial category. *This shift toward the industrial would result in physical changes in the area.*" Exhibit "R" at 2 (emphasis added.) White further notes that the design features that will make the jail stand out and will interfere with the business park integrity of the existing adjacent properties. *Id.*

Similarly, White concludes the project will likely result in adverse physical impacts to residential neighborhoods located near the megajail due to socioeconomic effects.

The social and economic changes resulting from the jail operation will lessen the desirability of these neighborhoods and will lead to "physical changes in the form of purchasers who would have lesser financial capability and/or less pride of ownership." *Id.* at 3.

Because of the limited time the County afforded for public review of the DEIR and its technical appendices, White's study of the project's impacts is necessarily limited. See Exhibit "R" at 3. In litigation involving the County's EIR for the Katella-Douglas jail, however, Cedric White presented more detailed testimony concerning the potential for socioeconomic impacts from jail construction to result in physical impacts. As explained in the Superior Court's decision invalidating EIR 464, White's testimony established that:

"[I]t is probable that there would be a reduction of in excess of \$10,000,000 . . . in the value of the twelve parcels of property in the immediate area of the Project; that this would impact the physical development of that area in that instead of the valuable hotels, office buildings and restaurants that are planned, there would be less valuable industrial buildings. [White] based this opinion on the fact that Project jail's bulk would be an 'inharmonious' use of the property; that the jail would 'stick out like a sore thumb' in this area of modern, well-situated, high-rise structures; that some property owners complained that the jail would change the character of the area causing depreciation in value, loss of leases and reduction of rents from what they would be under the current plan for hotels, office buildings and restaurants; that at least one commercial building tenant announced his intention to move because of the jail." Exhibit "HH" at 9-10.

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In invalidating the Katella-Douglas EIR, the Superior Court found White's testimony "persuasive evidence" that the County's contention concerning the lack of correlation between socioeconomic impacts and physical impacts was incorrect. *Id.* at 9. The court further instructed that, "County should make the sort of inquiry in Project area made by Mr. White and report it in EIR; that by failing to do so County has not complied with law." Exhibit "HH" at 10. The County has once again failed to perform an adequate socioeconomic study, and again reached an unsupportable conclusion as to the lack of such impacts.

Local realtors and real estate economists provide further compelling evidence as to the project's significant socioeconomic impacts. First, we incorporate by reference the comments of a local realtor, Marcel J. Fernandez, regarding DEIR 564. According to Mr. Fernandez:

- He has personally lost sales due to the disclosure of the jail expansion and the El Toro Airport issue. Mr. and Mrs. Ehsan Latif made an offer on 8/19/96 on 21211 Calle Oliva, Lake Forest, through Marilyn Mednick of Century 21. After making the disclosure about the plan to expand Musick they withdrew the offer. Mr. and Mrs. David Bucholz made an offer on 20962 Calle Celeste, Lake Forest on 9/1/96 through Mary Coughlin Century 21. After making the disclosure about the jail expansion they did not respond to the counter offer. Mr. and Mrs. Joe Bel Bruno made an offer on 25026 Crystal Circle, Lake Forest on 8/31/96 through Mr. Fernandez and withdrew the offer and purchased in Mission Viejo because of their concern about the impact that the proposed project would have on property

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values. Mr. and Mrs. Joe De Marco elected not to look at property in Lake Forest after the jail disclosure was made.

- Many real estate brokers are not showing property in Lake Forest near the jail due to the controversy over the proposed project and the proposed El Toro airport.
- In a recent economic outlook presented at the South Orange County Association of Realtors, Gary Watts stated that Lake Forest suffered the greatest loss in property value in South Orange County and that it is the most difficult place to sell a home.
- The South Orange County of Realtors passed a resolution opposing jail construction in general, in close proximity to homes, and the proposed project in particular, primarily due to the negative impact on property values.
- He believes that a reasonable estimate of the effect of the proposed project, based on his experience as a realtor, is that the proposed project will result in a ten to twenty percent decrease in the value of the homes nearest the facility.
- He finds that realtors are reporting that the jail and airport proposals are causing buyers to avoid looking at homes near those facilities and sellers are finding it more difficult to sell their homes.
- Members of an advertising group that meets once per week to select the best properties to advertise recently voted not to advertise Lake Forest property due to low ad response resulting from the jail and airport proposals.

Finally, the City also references the comments of Gary Watts, a local real estate economist. See Exhibit "OO." Mr. Watts has stated the following:

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"I have read the analysis of Dr. Tarantello regarding the *no effect* issue of the Musick Jail's expansion on property values and I would like to address some issues that his report neglected to disclose. As a real estate economist for the industry for the past 20 years, I have tracked the residential sales for Orange County. Since I live here in the Saddleback Valley, it is easy for me to provide direct data on the City of Lake Forest.

"First, any analysis of real estate that covers only 4 months can not possibly tell you what is *really* happening in the market. Second, it would be impossible to have the analysis relevant without the consideration of the proposed use of El Toro Marine base as another commercial airport. Third, one would have to understand the economic cycles effecting Orange County and how these recent years have affected sales. It is all well and good to say that property values are not going down but if the activity of residential sales are up 26.37% in Lake Forest over the last year, why are prices not rising?

"In Lake Forest, there were 383 sales during the above period but 183 homes entered the foreclosure process. That is a 45.75% of the total sales for that period! The area average is usually around 28%. If we were to look at the total sales through July, Lake Forest has had 581 residential sales yet 353 have entered the foreclosure process. That is a staggering 60% of total sales - the entire Saddleback Valley's average is only 30.83%!

"This prompts a series of questions. What is causing Lake Forest to have a higher rate of pending foreclosures than any other city? Why are

homes on the market longer in Lake Forest than any other city in this Valley? Why do these homes average fewer showing than similar homes in other cities and why are the potential buyers previewing these homes twice as much as buyers in the other cities and yet still not making an offer? This can only be explained by *some other* influence affecting the area. That influence has to be the combination of Lake Forest's close proximity to both the El Toro Marine base and the James A. Musick Facility and the proposed expansion of both facilities."

The DEIR must disclose the project's socioeconomic impacts, and analyze their likely nature, magnitude and timing.

Thresholds of Significance. Significance thresholds must be identified for socioeconomic impacts.

5.12.2 Project Impacts Prior to Mitigation

As discussed, above, there is compelling evidence that the project will result in significant socioeconomic impacts, including impacts that will result in a physical change to the environment, and these impacts must be acknowledged.

Page 185 - Cumulative Impacts. The EIR must discuss the likely impacts of the combination of the jail and El Toro reuse on the socioeconomics of the area.

5.12.3 Mitigation Measures

Mitigation measures should be organized under subheading indicating the impact addressed by the mitigation.

The following mitigation measures should be added to the DEIR. They will reduce but not eliminate the significant socioeconomic effects of the proposed project:

Mitigation: Upon the sale of properties located in proximity to the jail by owners in possession of the property at the time of project approval, the County shall compensate the owners for the loss of value of their property. The amount of compensation shall be determined by a method which is agreeable to the City of Lake Forest. Barring agreement by the City on method, compensation shall be in accordance with the following schedule: \$25 per square foot for residences and commercial and industrial buildings within 1,000 feet of the Musick property boundary, \$20 per square foot for structures within 1,001 to 1,500 feet, \$15 per square foot for structures within 1,501 to 2,000 feet, \$10 per square foot for structures within 2,001 to 2,500 feet, and \$5 per square foot for structures within 2,501 to 3,000 feet.

The measures which follow were included in the Settlement Agreement for the Theo Lacy facility as mitigation measures. The same type of measures should be included to help mitigate impacts of the proposed project. Where necessary, the measures have been modified to reflect the fact that the proposed project includes 7,584 rated beds compared to 1,909 rated beds for the Theo Lacy facility (i.e. the proposed project is 3.97 times the size of the Theo Lacy facility).

Mitigation: The County shall waive all jail booking fees or similar fees charged to the City of Lake Forest by the County and/or Sheriff.

Mitigation: The County shall establish a special road fund for the benefit of the City of Lake Forest by the fiscal year immediately following certification of the final project EIR. To such a special road fund, the

County shall commit an aggregate total of \$11,910,000.00 worth of design, engineering, construction and other work and funds for traffic improvements or other public works projects.

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Mitigation: The County shall establish a special HCD fund for the benefit of the City by the fiscal year immediately following certification of the Final Project EIR. To this special fund, the County shall dedicate \$1,985,000 over the following three (3) years to assist the City to develop eligible projects under the law.

5.12.4 Level of Significance After Mitigation

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Project Impacts. The DEIR must identify socioeconomic impacts as significant and unmitigated.

Cumulative Impacts. The DEIR must identify cumulative socioeconomic impacts as significant and unmitigated.

5.13 Project Construction Effects

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Page 186. This section of the DEIR should summarize the potential impacts associated with project construction that were identified elsewhere in Chapter 5. This section should also address potential cumulative impacts associated with construction. If other projects will be constructed during the same period as the proposed project, the DEIR should consider the combined effects of such construction.

5.14 Hazardous Materials Assessment

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The discussion in the DEIR is fatally flawed for the following reasons:

- It does not accurately identify all of the hazardous materials impacts identified in the Phase I analysis for the project. Impacts which are identified are minimized.

- It does not include the mitigations recommended in the Phase I analysis for the project.
- The DEIR includes one "mitigation" measure for the identified impacts - conducting a further study to confirm the absence of hazardous materials. The County itself has acknowledged that additional environmental studies are warranted as a result of the Phase I report; further study does not constitute mitigation for project impacts. Additionally, the DEIR's proposed "mitigation" assumes there are no impacts, even though impacts are identified in the Phase I study. Finally, the mitigation does not specify any remediation action for identified impacts. Therefore all impacts remain significant.
- The discussion does not adequately address the issue of hazardous materials associated with the Alton Parkway site.
- The DEIR fails to address hazardous materials issues associated with the 39 conveyance acres.
- The DEIR fails to address potential radon, lead in paint, and lead in water hazards.

5.14.1 Environmental Setting

Page 187. A map showing the location of identified hazardous materials problems on the full site should be provided in the setting section.

The Phase I site assessment for the project (Appendix M to DEIR 564) on page 7-4 states: "Due to the proximity of the subject site to the El Toro Air Station site, the possibility exists that groundwater contamination generated by the Station will extend beneath the subject site." This appears to conflict with the statement in the DEIR that "[t]he area of contamination on the Musick Jail site is northeast of the access planned off

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Alton Parkway, and therefore will not interfere in any way with the construction of the facilities." This conflict needs to be resolved.

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Page 187 - Thresholds of Significance. The DEIR should include thresholds of significance for: agricultural contaminants, underground storage tanks and tank leaks, subsurface contamination associated with stored materials and machinery, transformers, asbestos, groundwater contamination, radon, lead paint and lead in water.

5.14.2 Project Impacts Prior to Mitigation

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Pages 187-188. The discussion implies that there are no significant impacts because no medium or major environmental concerns were identified in the Phase I assessment. This is an incorrect impression. As explained on page 7-1 of the Phase I assessment contained in Appendix M, "(t)he distinction among major, medium, and minor concerns is based solely on the relative estimated dollar-cost of completing the next-step recommended action." The classifications, therefore, do not indicate that the impacts are less than significant. In fact, any impact requiring remediation should be classified as significant. The discussion must be modified, and significant impacts acknowledged.

The Phase I assessment identifies the following hazardous materials impacts for the 100-acre portion of the project site on which the current facility is located (impacts are quoted from pages 7-1 to 7-4 of the Phase I assessment contained in DEIR Appendix M). Each of these impacts should be spelled out in the DEIR (including in the summary table) as follows, and identified as significant:

- (1) **Agricultural contamination.** According to the Phase I assessment: "[I]t appears the site was historically, and is currently used for agricultural purposes. The

potential exists for the on-site soil to harbor significant amounts of agricultural chemicals, such as pesticides."

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The DEIR offers no support for the contention on page 188 that "there is very little potential for agricultural chemicals to have been applied in such a concentration that they would pose environmental risk." The statement is in conflict with the Phase I assessment prepared for the project and should be corrected.

- (2) **Subsurface Impacts.** An underground storage tank (previously filled with diesel fuel) is located beneath the emergency generator. No documentation was available to verify that this tank has been properly abandoned according to federal, state or local regulations. It is not known if this tank contains residual fuel, or if the tank has leaked fuel in the past. Therefore, the potential exists for the subsurface to have been impacted by this underground storage tank.

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Two known underground tanks have leaked and impacted the soil. The tanks and impacted soils were excavated and removed, and the area was backfilled with cement. However, no tank/site closure documentation was available for review. In addition, the regulatory database search indicated that an active 10,000 gallon tank is located on-site. It is assumed that the listed, registered tank is one of these two former tanks.

Six 55-gallon drums were observed in the northeastern portion of the subject property. These drums were unlabeled, however, the site contact indicated that they contained oil and waste oil for the tractors used on-site. The

drums were stored on an unpaved surface. Leakage or spillage from the drums may have resulted in subsurface impacts.

A small oil pump and associated oil storage tank were observed in the area of the engine shop. Apparently this equipment is no longer in use and is empty. However, it is located on an unpaved surface. Previous leakage or spillage of oil may have impacted the subsurface.

County supplied documentation of hazardous material storage and usage at the site indicates that various solvents, including trichloroethane have been used on site. The documentation also indicates that these materials are stored within a warehouse, and were, therefore, not observed by the site assessor, as only the exterior portions of the subject property were included in the assessment. The characteristics of solvents is such that concrete flooring does not provide an adequate barrier for preventing surface spills from reaching the subsurface. Also such solvents are typically colorless and do not react with concrete, leaving little or no evidence of past spillage or leakage. Given the use or past use of these materials, it is possible that the subsurface at the site has been impacted by solvents.

The existing discussion in the DEIR understates the potential for impacts. Based on the Phase I assessment, impacts associated with agricultural contamination and subsurface contamination should be classified as significant prior to mitigation.

As identified in the DEIR, the site also contains transformers with the potential to contain polychlorinated byphenyls. The discussion on page 187 implies the transformers may be moved as a result of the proposed project. The DEIR should indicate whether

construction on the project site would impact these transformers, and if so, a mitigation measure should be included to ensure testing of the fluids in the transformers, prior to construction, and to ensure that construction activities will not result in the release of PCB's. If the proposed project will impact existing transformers, impacts should be identified as significant.

Contrary to the recommendations of its own Environmental Resources Division, the County fails to include an asbestos survey of the Musick structures conducted by the County's General Services Agency. The DEIR must add this survey. See Exhibit "PP" at 2.

The DEIR should explain the regulations regarding the abatement of asbestos impacts during demolition so the reader will be assured that potential asbestos impacts will be mitigated through compliance with existing regulations, or the DEIR should specify asbestos abatement practices that will be followed in a mitigation measure. Given the potential presence of asbestos, impacts should be classified as significant.

The County Environmental Resources Department also notes that the Phase I assessment did not include any conclusions or recommendations "regarding the potential presence or impact of radon, lead-based paint or lead-containing water." Exhibit "PP" at 2. Given the potential presence of radon and lead concerns, they must be classified as significant.

The DEIR also needs to address the future use of contaminants on the site and include either mitigation measures to ensure that the impacts of such use will not produce significant impacts, or describe in the setting section of the discussion the regulatory framework which will ensure that such impacts will not occur.

217 The DEIR should discuss whether construction of the proposed project will result in exposure of workers or project residents to potentially contaminated ground water. If so, this impact should be identified as significant and mitigation measures to address the impact should be included in the DEIR. Page 123 of the DEIR indicates that grading of the project site will result in removal of 10 to 50 feet of soil in the central and northeasterly portions of the existing site. Both the hydrology and hazardous materials discussions must address the potential for grading activity to result in exposure to contaminated groundwater.

The DEIR should also indicate whether the proposed project will result in any groundwater use or extraction. If groundwater is to be used for agricultural purposes, potential impacts should be addressed and mitigation measures to address impacts included.

The DEIR must also address potential hazardous materials issues associated with the remainder of the project (i.e., Alton Parkway and the conveyance sites).

218 Page 188. As evidenced by the Phase I assessment, the conclusion that "there are no hazardous materials issues with respect to this site" is inaccurate and should be deleted. Ease of remediation does not equate to a lack of impacts.

219 Cumulative Impacts. The EIR must include a discussion of cumulative hazardous materials impacts.

5.14.3 Mitigation Measures

220 Page 188. Mitigation Measure 52 states that a study will be done to "confirm the absence of agricultural chemicals in significant amounts, the absence of asbestos in buildings, and the absence of any environmental risks from the transformers." Since the

Phase I assessment indicates there are likely to be contaminants on the site, a study to confirm the *non-existence* of contaminants is inappropriate and yet again evidence of a bias in the DEIR toward understatement of impacts. Indeed, the County Environmental Resources Division has explicitly informed the DEIR planners that the Phase I report identified the potential for environmental contamination, that "additional environmental investigations of the property are warranted," and that further mitigation measures may be necessary. The DEIR ignores this information. Exhibit "PP" at 2.

While additional studies are required to fully assess the hazardous materials impacts of the site, such studies do not constitute a mitigation measure for such impacts. The DEIR must delete this measure as "mitigation," and add mitigation measures reflecting the recommendations of the Phase I assessment.

Mitigation measures should be organized under subheadings indicating the impacts addressed by the mitigations. The following mitigation measures, which are recommended in the Phase I assessment for the 100-acre existing Musick site should be included in this section of the DEIR and the summary table.

The following mitigation included in the Phase I assessment will reduce impacts associated with existing agricultural contaminants:

Mitigation: Prior to the issuance of construction permits, a geotechnical firm shall conduct soil borings and sample the soil on-site in areas that have been or are currently utilized for agricultural purposes. The County shall comply with all remediation actions recommended by the geotechnical firm prior to issuance of the construction permit for the first

structure to be built on the project site, or the demolition of any existing structures.

The following mitigation measures included in the Phase I assessment will reduce impacts associated with subsurface contamination:

Mitigation: Prior to the issuance of construction permits for the project, the underground storage tanks beneath the emergency generator shall be properly abandoned in accordance with applicable local and state regulations and soil borings in the vicinity of this tank and associated piping shall be installed to determine whether subsurface impacts have occurred from fuel leakage over time. The County shall comply with all remediation actions recommended by the geotechnical firm based on the soil borings, prior to issuance of the construction permit for the first structure to be built on the project site, or the demolition of any existing structures.

Mitigation: Existing documentation from the Orange County Environmental Health Department regarding the two reportedly removed underground storage tanks shall be reviewed to determine if the site has achieved closure. If closure cannot be verified, soil borings shall be installed by a geotechnical firm in the areas of these previous tanks to determine if any subsurface contamination has occurred, and if so, the vertical and lateral extent. The County shall comply with all remediation actions recommended by the geotechnical firm based on the soil borings, prior to issuance of the construction permit for the first structure to be built on the project site, or the demolition of any existing structures.

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Mitigation: Actions shall be taken to verify that the 10,000 gallon tank identified in the regulatory database search is one of the two previously removed underground storage tanks, and to verify the location and status of this tank. The tank shall be properly abandoned or removed in accordance with applicable local and state regulations if it will not continue to be used. The County shall comply with all applicable abandonment or removal procedures prior to issuance of the construction permit for the first structure to be built on the project site, or the demolition of any existing structures.

Mitigation: All 55-gallon drums of hazardous materials and or hazardous waste shall be provided with secondary containment to preclude subsurface impacts to the unpaved ground surface of storage areas. All future hazardous materials and hazardous waste associated with the project shall similarly be provided with secondary containment. Soil borings shall be installed by a geotechnical firm in the vicinity of the oil and waste oil storage area to determine if subsurface impacts have occurred as a result of spillage or leakage of the drums over time. The County shall comply with all remediation actions recommended by the geotechnical firm based on the soil borings, prior to issuance of the construction permit for the first structure to be built on the project site, or the demolition of any existing structures.

The DEIR should also include measures to address asbestos and transformer impacts. Measures should also be added to ensure that construction and operation of the project will not result in exposure to contaminated groundwater.

The following mitigation measure will reduce the potential impacts associated with construction of Alton Parkway:

Mitigation: Construction permits for the Alton Parkway extension shall not be issued until such time as the Department of the Navy completes remediation of the landfill area to the northwest of the existing Musick site, and the associated contamination in the vicinity of the Alton Parkway extension site.

The DEIR also need to address the future use of contaminants on the site and include either mitigation measures to ensure that the impacts of such use will not produce significant impacts, or describe, in the setting section of the discussion, the regulatory framework which will ensure that such impacts are will not occur.

5.14.4 Level of Significance After Mitigation

Project Impacts. The DEIR may not simply conclude that any hazardous materials impacts identified in the required further studies will be insignificant because of "stringent regulation." Rather, further studies must be carried out, and mitigation measures adopted for any of the impacts identified for such study. The study and new mitigation measures must then be recirculated for public comment. Until such study is carried out and recirculated, the County must consider significant any project impacts that require further analysis prior to the specification of mitigation measures for remediation and before the level of significance after mitigation can be assessed. These impacts include: hazards associated with agricultural chemicals, subsurface contamination, radon, and lead.

Cumulative Impacts.

The DEIR should discuss the degree to which the impacts associated with cumulative development will be mitigated.

Chapter 6 - Long-Term Implications of the Proposed Project

For the reasons addressed above, the discussion on this page needs to disclose the permanent loss of prime agricultural land as a significant, unmitigated long-term impact of the project. The possible relocation or supplementation of existing agricultural area with new areas does not eliminate this impact, especially because the total amount of agricultural area will be reduced. As is also discussed, the socioeconomic impacts of the project should be disclosed here, including the long-term degradation of quality of surrounding land uses because of the construction of the proposed project. The air quality impacts of the project also should be disclosed in this chapter. Contrary to what is stated in paragraph 3 on page 189 of the DEIR, the traffic and air quality impacts cannot be ignored simply because the proposed project purportedly has a low traffic generation rate. For purposes of disclosure here, the relevant comparison is to traffic and air quality impacts caused by the existing use of the property, and not a comparison to other potential uses that might be more deleterious. All of the significant project-specific and cumulative impacts need to be discussed as long-term implications of the project.

Finally, the analysis in the second paragraph on page 189 is not substantiated in the DEIR. The DEIR contains no showing that crime will increase in Orange County if the proposed project is not built. Not only do criminologists differ on this issue, but there are other alternatives available to the County to address this concern. The

statements in the second paragraph on this page are beyond the scope of this DEIR, and should be eliminated.

Chapter 7 – Alternatives to the Proposed Project

The alternatives analysis in DEIR 564 is fundamentally flawed and, indeed, possesses many of the same defects that caused the Orange County Superior Court to invalidate a far more extensive analysis of project alternatives in EIR 464. Amazingly, DEIR 564 incorporates the EIR 464 alternatives analysis by reference in an effort to bolster the obviously inadequate analysis in DEIR 564, without mentioning that the Orange County Superior Court specifically invalidated the alternatives analysis in EIR 464. See Exhibit “HH” at 15-16. Unlike DEIR 564, EIR 464 at least attempted to contain a comprehensive analysis of the environmental impacts of siting the proposed near-term jail at various alternative sites within the County, including site-specific analyses of the impacts at each of the alternative sites.

By contrast, DEIR 564 makes no effort to comprehensively analyze the impacts of placing the proposed \$1 billion megajail at alternative sites. Instead, DEIR 564 blithely asserts – without any support whatsoever – that placing the megajail at other sites would result in equal or fewer environmental impacts. To even begin to comply with CEQA's requirements, DEIR 564 must contain a systematic analysis of the environmental impacts of each proposed alternative, along with a summary table comparing the potential environmental effects of each of the alternatives. This kind of analysis has routinely been included in the County's past jail-related EIRs, but is

excluded from DEIR 564 because the preparer of the document never conducted the necessary analysis.

The biased, result-driven alternatives analysis in DEIR 564 is premised upon two fundamentally flawed assumptions that permeate the entire alternatives analysis. In repeated instances, DEIR 564 rejects alternatives because they (1) are too expensive or (2) cannot be available as quickly as the proposed Musick megajail. Before turning to specific errors in the alternatives analysis, it is necessary to discuss these mistaken assumptions.

First, the DEIR repeatedly uses fiscal considerations – rather than environmental concerns – as the basis for rejecting alternatives, claiming that the rejected alternatives would be too expensive. This reasoning is completely unsupported, because DEIR 564 contains no analysis whatsoever of the cost of the proposed Musick megajail. During the scoping process, the Sheriff's Department stated that cost studies would be performed as part of the environmental analysis. See Exhibit "C" at 2-3. In fact, no such cost studies are contained in DEIR 564, and apparently none were performed.

An estimate of the cost of the proposed megajail can, however, be gleaned from documents prepared by the Sheriff's Department for a proposed jail at El Toro MCAS. The Sheriff's Department estimated that construction of a 7,000-inmate jail at the El Toro MCAS would cost "\$1 billion-plus," and that it would cost \$230 million per year to staff such facility. See Exhibits "V" and "W." The Sheriff's Department's documents concerning the proposed site at El Toro also admit that funding for such a facility would require voter approval. See Exhibit "Q" at 9. Assuming that these estimates are accurate, it is evident that the proposed Musick megajail is completely infeasible

because the County has nowhere near the amount of funds necessary to build or operate the facility and voter approval of a \$1 billion jail construction bond measure is extremely unlikely, given the County's past history with such initiatives. Accordingly, the DEIR's reliance on fiscal considerations to reject other alternatives is unwarranted.

Although DEIR 564 does not discuss the cost of the proposed megajail, the alternatives analysis suggests that DEIR 564 must be pushed through on an accelerated track so that the County can be in line to get funds from the State Department of Corrections following the November 4, 1996 election. Again, this reasoning does not withstand scrutiny, and the DEIR's reliance on these fiscal and timing excuses to justify a breakneck planning and environmental review process for the Musick megajail is unwarranted. Even assuming *arguendo* that the bond measure is passed in November, 1996, only \$350 million will be available from those bonds for jail construction in the entire state. See Exhibits "C" at 2 and "JJ." There is no reason to believe that Orange County will receive sufficient funds from that measure to even get a toehold for the construction of a billion-dollar-jail, particularly because highest priority in distribution of those funds will go to counties with the highest percentage of matching funds and a minimum matching fund of 25%. See Exhibit "JJ." Given that the County has budgeted no funds for jail construction in its FY97 budget and in light of the County's overall fiscal situation, there is no reason to believe that a high percentage of matching funds will be available.

Moreover, to the extent that any funds are received by the County from the November bond measure, the Sheriff has already stated publicly that those funds should go first towards completion of the already-approved Theo Lacy expansion. And,

even if any state funds were available, as DEIR 564 admits, the availability of State Board of Corrections funding depends on "readiness to start work – i.e., that all environmental documentation has been completed, is not in litigation, or litigation is resolved. . . ." DEIR 564 at 198; see also Exhibit "Z," "Findings" at 5. Here, it is a virtual certainty that, if the County's certifies DEIR 564 in its grossly inadequate form, litigation will follow and no funds will be available until that litigation is resolved many months hence, after the County prepares and circulates a new EIR.

224 Finally, DEIR 564's reliance on timing considerations as a basis for rejecting various alternatives is belied by statements contained in the document itself. Although DEIR 564 contains no timetable for construction of the proposed Musick megajail, the DEIR states (at p. 42) that construction of the Alton Parkway extension in 2001 "appears to be consistent with the schedule for the Musick Jail." Accordingly, the DEIR cannot properly rely on short-term timing considerations as a basis for rejecting otherwise feasible alternatives.

In general, the alternatives analysis in DEIR 564 is deficient because it is so cursory and biased. No meaningful attempt is made to look at other locations and analyze the environmental impacts of siting a jail there. Because there are serious unmitigated environmental impacts from the proposed Musick megajail, as explained above, DEIR 564 is required to contain such a comprehensive alternatives analysis. Specific page-by-page examples of errors and deficiencies in DEIR 564's alternatives analysis are identified below.

225 Page 191: The DEIR inaccurately states that it presents 28 alternatives to the proposed project and that 46 sites were examined in the Long-Term Jail Study. In

truth, there are not 28 alternatives discussed in DEIR 564, or at least not 28 that can be found by the reader. Likewise, DEIR 564 does not examine the 46 sites from the Long-Term Jail Study. Merely referencing that document, which was prepared fifteen years ago, and has not been updated since, cannot constitute meaningful environmental analysis for purposes of analyzing the proposed Musick megajail.

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There is no empirical support for the editorializing contained in the second paragraph on page 191. The concerns expressed by the City of Lake Forest in these comments relate to physical environmental effects, such as the loss of prime agricultural farmland, impacts on land use patterns that will follow from reduced property values, etc. A blanket statement that these effects will be the same at any location is false. As the court ruled in the EIR 464 litigation, a site-by-site analysis of effects at each jail site (including socioeconomic impacts) is required by CEQA. See Exhibit "HH" at 9-11. This entire paragraph should be eliminated.

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Page 192: This chart should be eliminated from the EIR. It is grossly misleading. No analyses of these alternative site locations – or even a summary of analysis – is contained in the DEIR 564, and thus there is no basis for including this chart.

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Page 193: The first three paragraphs of this page are another example of editorializing in this DEIR. For example, there is no empirical support for the conclusion in the third paragraph that selection of a site that is already an incarceration facility should have any impact on the viability of a CEQA challenge to an EIR involving that site, particularly when a minimum security camp-facility is being razed and replaced

with a 9,000-inmate megajail. The issue of whether CEQA has been complied with in DEIR 564 stands on its own, without regard to existing uses of the Musick site.

The discussion at the bottom of this page concerning the County's search for a long-term jail site is distorted, inaccurate, and of little relevance to the environmental impacts of the proposed Musick megajail, given that the earlier study occurred over fifteen years ago, as the text of page 193 acknowledges. The text at the very bottom of page 193 is inaccurate. The California Legislature enacted a law forbidding use of State funds for a jail close to Disneyland *before* the court invalidated EIR 464, and the County had made a decision to attempt to go forward with the Katella-Douglas site even after the enactment of that law. The trial in the lawsuit involving EIR 464 commenced after the enactment of that law.

Page 194: DEIR 564's cursory description of reasons for abandonment of the Gypsum Canyon site is inaccurate and incomplete. This paragraph states that the "facts" discussed in this paragraph "are considered in greater detail in the discussion of this alternative." In fact, there is no detailed discussion of the Gypsum Canyon alternative anywhere in DEIR 564. In truth, when the Board of Supervisors temporarily abandoned the Gypsum Canyon site, only fiscal considerations were cited by the Board of Supervisors. See Exhibit "Y." FEIR 476, which analyzed construction of the proposed Gypsum Canyon Jail, was not rescinded by the County, and the Board of Supervisors specifically did not rescind its findings concerning FEIR 476. Accordingly, the Board of Supervisors is still on record as stating that the Gypsum Canyon site "has been determined to be the most responsible and expeditious method to provide additional minimum and maximum security capacity to alleviate existing and projected

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jail overcrowding." Exhibit "Y" at 5. As noted above, to the extent that fiscal considerations are used as a basis for rejection of the Gypsum Canyon site, there is no support for this conclusion in DEIR 564, because there is no analysis in DEIR 564 of the cost of the proposed Musick megajail, nor is there any analysis of the likely cost of any of the alternatives discussed in DEIR 564.

228 The second full paragraph on this page misleadingly suggests that the County's Bankruptcy has made it impossible for the County to focus on sites that it does not presently own. Again, this statement is not supported in the record of DEIR 564, nor does it find any support in fact. As is detailed below, the County's long history of looking for a site for a large, maximum security jail assumed that the Musick site would be traded or sold for an alternative site. The County's Bankruptcy plan specifically allows the County to sell property that has been pledged to collateralize its Certificates of Participation and to substitute other properties of equal rental value. See Exhibit "LL" at 144-145. Such a substitution could occur either by pledging other properties currently owned by the County or by pledging property purchased with funds gained from the sale of the Musick site. Under either scenario, DEIR 564 is mistaken when it suggests that the Bankruptcy constricts the County to consideration only of currently-available sites.

229 Pages 195 - 196 – CEQA Exemption: DEIR 564's discussion of seeking a legislative exemption from CEQA as a project "alternative" is improper and irrelevant. As the County is well aware, no exemption from CEQA exists for the current project, and thus the County must comply fully with CEQA. Exemptions from CEQA certainly would not reduce the environmental impacts of prison construction, but would simply

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further the County's effort to hide the true impacts of prison construction. This entire discussion has no place in an EIR under CEQA.

Pages 196-197 – Management Systems Alternative: Obviously,

implementation of a management systems approach to relieve the jail overcrowding would reduce the environmental impacts of the proposed megajail to the extent that a smaller jail could be built. Even assuming that the analysis contained in DEIR 564 of the management systems approach is accurate, implementation of this alternative would allow elimination of 1,154 beds from the proposed project. DEIR 564 does not explain why this alternative is not being adopted, except to suggest that the County does not have funds to implement these management systems alternatives. This reasoning is ridiculous, because management systems alternatives are considerably less costly than construction proposed in DEIR 564. Even though DEIR 564 assumed – without any support whatsoever – the State may provide funding for construction of the proposed project, operation of the jail still would be a County responsibility, and even operational costs alone are cheaper for management systems alternatives. At a minimum, this alternative cannot be rejected without a detailed financial analysis of the cost of management systems alternatives compared to the cost of building and operating the proposed project. This alternative, which is environmentally superior, should be adopted, and the size of the proposed jail should be decreased by 1,154 rated beds.

Pages 197-199 – Undertake a Long-Term Jail Study: There is no basis for a

rejection of this alternative, and such a study is precisely what CEQA requires in order to ensure that the County is identifying the environmentally superior alternative before

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committing to construction of what will be the largest prisoner jail facility in the State of California. As the County's own documents recognize, it has no current long-term study, because the last study was conducted years ago, when conditions were very different. Five years ago, on October 1, 1991, when the Board of Supervisors was considering whether to proceed with the Gypsum Canyon Jail, the Board recognized the importance of long-term planning and adopted the following actions:

"Direct the County Administrative Office to complete a comprehensive financial plan prior to the development of any long-term alternatives. [And] [a]fter Board approval of a financial plan, the County Administrative Office will review and prioritize all long-term alternatives to relieve jail overcrowding and present their recommendations to the Board of Supervisors." Exhibit "N" at 2.

This never happened.

Accordingly, the need for long-term jail planning was recognized as a "critical issue" for the proposed Musick megajail. The agenda from the original "Initiation and Coordination Meeting" for the Musick facility includes the following discussion:

"[A long-term jail solutions report] has been sought for some time, and was discussed during the Theo Lacy Project. However, the report was never completed. Although the settlement in Theo Lacy prevented this from ever becoming a critical issue, *it can be anticipated as a critical issue for this*

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project, since it is mentioned in the record so often." Exhibit

"J" at 4 (emphasis added).

This document also suggests that the "responsible party" for developing such a report should be the County Administrative Office, in coordination with the Sheriff.

Undertaking a proposal to build a megajail at Musick without any long-term planning is imprudent and wasteful, as recognized in a document prepared by the County

Administrative Office just two years ago. That document states:

"Based on experience with the Gypsum Canyon plan, it does not appear to be financially prudent to develop a site specific long-term plan until a funding source is identified. When funding becomes available, the amount of funding could have a significant impact on the type, size, and location of the project." Exhibit "S" at 7.

Nevertheless, in DEIR 564 the County has chosen to go down this "imprudent" path again.

Nevertheless DEIR 564 rejects the alternative of undertaking a long-term jail study because of the "crisis level demand the jail system is currently experiencing." DEIR 564 at 197. This reason for rejecting a long-term study before committing to construction of a billion-dollar-jail finds no support in fact, and simply shows why the County needs rational planning. As discussed above, there is no reason to believe that funding will be available for construction of this proposed billion-dollar-megajail any time in the near future, and even DEIR 564 admits that construction of the proposed project will not be undertaken until 2001 or sometime thereafter. *Id.* at 42. The DEIR's

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assertion that the Board of Corrections "frequently" makes funding available for "smaller" jail proposals has no evidentiary support. To the extent that the County wishes to rely on this factor, specific funded projects need to be identified. In any event, the Board of Corrections has never provided funding for a jail of this magnitude. Moreover, DEIR 564 acknowledges that State funding is available only if the proposed project is not in litigation or litigation is resolved. *Id.* at 198. Given the many inadequacies in DEIR 564, litigation will ensue if the County elects to go forward on the basis of this document.

231 DEIR 564's blanket assertions about the unavailability of alternative sites for a long-term jail (at p. 198) are not supported by any evidentiary analysis; these unsubstantiated assertions do not support the DEIR's rejection of further study. To the extent that the County wishes to reject any alternative sites in this DEIR, each such site must be specifically identified and analyzed, in a manner similar to what was undertaken in prior EIRs, albeit more comprehensively, so that the analysis complies with CEQA's requirements. It is particularly inappropriate for DEIR 564 to "incorporate" prior EIRs for the long-term and near-term jail sites. The EIR for long-term jail sites was prepared fifteen years ago, and is of no relevance. Not only was the EIR for near-term jail sites (EIR 464) prepared ten years ago, but the alternatives analysis in that EIR was specifically invalidated by court order. See Exhibit "HH" at 15-16. As the court held, EIR 464 relied upon unsubstantiated assumptions to reject various alternatives, and the County was ordered to undertake a new alternatives analysis that did not rely on such unsubstantiated or demonstrably false assumptions. The deficiencies in EIR 464 were

never corrected by the County, and these same vices can now be found in DEIR 564's far more cursory analysis of alternatives.

Consideration of building a new jail in Santa Ana, as recommended by the Orange County Grand Jury Report, and discussed in the context of a long-term jail study in DEIR 564 at 198, is discussed further below.

Finally, the summation of reasons for rejecting a long-term jail set forth at page 199 is inaccurate and unsupported. Contrary to the statement at page 199, there is not a "paucity" of physical environmental impacts as a result of the so-called "expansion" of the Musick facility, as demonstrated above. Likewise, there have not been "many years of searching in vain for alternative sites." *Id.* Rather, years ago an effort was made to select an alternative site. That effort has not been renewed for fifteen years, even though the necessity of a long-term jail plan was identified as a "critical issue" before the writing of DEIR 564 was begun. This critical issue must be addressed before a document that complies with CEQA can be prepared.

Pages 199-200 – Private Jail Alternative: DEIR 564 states that the alternative of private jail operations is rejected because it is not permitted by current law. *Id.* at 200. This statement is not correct, as shown by a document prepared by the County Administrative Officer in October 1994. That document states:

"[A]s potential projects are considered, the County should remain flexible and explore options which may not involve County-owned property. This could include El Toro MCAS, *public-private construction of facilities on privately-owned*

land, and work furlough and detox programs provided by private contractors." Exhibit "S" at 6 (emphasis added).

232 As this Report prepared by the CAO correctly recognizes, there is no legal impediment under California law to joint public/private construction or operation of jail facilities, including such facilities built on privately-owned land. Given the financial and practical difficulties that the County has had in constructing its own jails, this alternative requires careful consideration and analysis, particularly because it could allow the County to avoid the capital costs associated with the construction of a massive facility. Instead, the County could enter into a long-term lease of a privately-constructed facility, which could prove to be a desirable option given the County's current difficulty in entering capital markets. This alternative – which is not illegal or infeasible – must be carefully analyzed, particularly because it might allow construction of a jail that is not a few hundred feet from existing residential development.

With regard to this alternative, DEIR 564 also is obviously biased in its inclusion of two paragraphs of text at the top of page 200 discussing problems that have arisen at privately-operated facilities. Far more dramatic and dangerous problems have arisen at publicly-operated facilities. These two paragraphs of text should be eliminated.

Page 201 – Reduce Size of Musick Project to Serve South County

Residents: DEIR 564's cursory dismissal of this alternative fails to comply with CEQA.

233 Before this alternative can be dismissed, an analysis needs to be conducted of the environmental impacts that would be generated by a smaller facility. Such an analysis would disprove DEIR 564's unsubstantiated assertion that this smaller-jail facility would not reduce impacts "by any significant amount." DEIR 564 at 201. Because a smaller

Musick Project, designed to serve only South County residents, would result in fewer traffic, safety, socioeconomic, and other impacts, this alternative is environmentally superior to the proposed project and must be so designated in the DEIR.

233 This alternative is particularly deserving of further consideration, given that DEIR 564 attempts to justify the siting of a maximum security facility at Musick because a quarter of the County's arrests occur in the South County. See DEIR 564 at 26-27. On the basis of this factor, a jail in South County should hold no more than 24% of the County's inmates – far fewer than the 9,000 inmates who would ultimately occupy the proposed Musick megajail. In addition, in assessing what size facility should be placed in South County because of "fairness" considerations, the DEIR should disclose the percentage of arrestees who are South County residents, as opposed to inmates who were simply arrested in the South County area. The preparer of the DEIR acknowledged that this was an issue during the preparation stage, see Exhibit "I," but this information nevertheless is not disclosed in the DEIR. Without this additional information, the statistics contained at page 27 of the DEIR are incomplete and misleading.

The biased, result-driven orientation of DEIR 564 is evidenced in the assertion in the fourth paragraph of this page that Alton Parkway could not be completed if the proposed 9,000-inmate megajail is not built. As noted above, DEIR 564 already states that the Alton Parkway access will not be needed until the Alton Parkway extension is built in or about 2001. *Id.* at 42. The County already had planned to undertake that extension without fill dirt from the Musick site.

Pages 202-205 – Grand Jury Report Alternative: Given that DEIR 564

acknowledges that construction of this alternative would reduce environmental impacts by over 50% (DEIR at 204), the DEIR must recommend selection of this alternative over the proposed 9,000-inmate megajail that is the proposed project. In particular, construction of a new, highrise jail facility in Santa Ana would have far fewer socioeconomic and land use impacts, because the jail would be placed at the site of an existing maximum security facility adjacent to other government office buildings, including the courts.

Given that the Santa Ana facility would have fewer environmental impacts and that funding does not exist anywhere in the foreseeable future to construct a single 3,000-bed jail – let alone the proposed 9,000-inmate facility – construction of a single jail in Santa Ana should be considered as an alternative that is environmentally superior and far more likely to be feasible than the proposed Musick megajail.

Clear evidence of the fact that DEIR 564 fails to fulfill its required function under CEQA can be found in the DEIR's statement that the Santa Ana facility is not selected as an alternative because there has been "no environmental documentation to support its selection at this time." /d/ at 204. If DEIR 564 were fulfilling its legally mandated function of identifying and analyzing alternatives, this document would constitute the necessary environmental documentation to support its selection. Relying on this as a reason for not recommending construction of a jail in Santa Ana as the environmentally superior alternative is ludicrous, and evidences a failure to understand even the most fundamental precepts of CEQA.

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234 To the extent that DEIR 564 suggests that the Santa Ana site may be too small for the proposed highrise jail, this suggestion also finds no support. As supposed evidence for this analysis, DEIR 564 notes that EIR 464 proposed a ten-story jail building on seven acres, and suggested this may be a minimum acreage requirement. In fact, the court order invalidating EIR 464 specifically rejected this 7-acre minimum criterion and noted that a highrise jail could be built on as little as 2.5 acres. See Exhibit "HH" at 15. DEIR 564 repeats the same error later, as noted below. Likewise, the Sheriff's Department, which is responsible for operating jails, has stated that it could support the Grand Jury's recommendation of building a 3,000-bed jail at a Santa Ana site. See Exhibit "U." Moreover, before recommending a 3,000-bed jail in Santa Ana, the Grand Jury itself investigated the feasibility by visiting the new Federal Metropolitan Detention Center in Los Angeles. See Exhibit "T" at 3. To the extent that DEIR 564 suggests that a highrise jail facility at a Santa Ana site is infeasible, that suggestion is entirely unfounded.

In sum, DEIR 564 is inadequate because it does not fully analyze and weigh the comparative merits of building a Santa Ana jail in lieu of a new Musick megajail. Given that it is "so remote and speculative it constitutes an exercise in futility" (DEIR 564 at 195) to believe that the County would have funding to pursue both the Santa Ana jail and a new Musick jail at any time in the foreseeable future, DEIR 564 must analyze and disclose the comparative environmental impacts of a Santa Ana jail and a new Musick jail.

Pages 204-205 – Limited Expansion of Musick Jail: For the same reasons

discussed above with regard to Alternative 7.6 at page 201, this alternative is environmentally superior and should be designated as such.

235 The reasons given for not designating this alternative as the preferred project are unsupported. Even DEIR 564's suggestion that funds may be available from the November 1996 bond measure to construct Complex 1 at Musick is unfounded, because the Sheriff's Department has already stated publicly that funds from that bond measure will go first to completing the already-approved expansion at Theo Lacy, and it is completely unrealistic to believe that sufficient funds will be received by Orange County to undertake both projects. DEIR 564's suggestion that the County nevertheless should approve a project that it has no funds to build is directly refuted by the CAO's October 1994 memo stating that it is not prudent to develop a site-specific plan until a funding source is identified, because "the amount of funding could have a significant impact on the type, size, and location of the project." See Exhibit "S" at 7.

Finally, the last paragraph on page 205 is confusing. What is the relationship between this alternative and whether jail facilities are placed at El Toro MCAS? Regardless of whether a small jail – or no new jail – is built at the Musick site, the County could place jail facilities at the El Toro MCAS or at other sites not yet analyzed by the County. This last paragraph makes no sense.

Pages 206-207 – Limit on Inmate Classifications: In order to evaluate the

236 feasibility of this alternative, the DEIR needs to disclose specific number projections for minimum, medium, and maximum-security beds. Such information was available to the County in the past, but apparently is not available now because the County has failed to

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prepare the necessary long-term jail study. If such figures were available, it likely would be evident that the County's maximum security jail beds could be met by the planned Theo Lacy expansion, perhaps supplemented by construction of a new facility in Santa Ana. Under this scenario, only minimum security inmates would have to be placed at an expanded Musick facility, which would dramatically lessen the environmental impacts of the proposed project. Contrary to what DEIR 564 states at page 207, such an alternative would reduce the impacts of the proposed project, particularly because socioeconomic impacts and resulting land use impacts would be reduced if the existing honor camp were simply expanded, instead of replaced by a new megajail that would be largest maximum security facility in the State of California.

236 The need to carefully analyze the alternative of placing only minimum security inmates at the Musick site is shown most clearly by the County's 1986 Musick Master Plan EIR. In that EIR, one of the alternatives that was considered was placing medium or maximum security inmates at the Musick facility. The suggestion of placing such high-risk inmates at Musick was emphatically rejected in that EIR:

"The design of a medium-maximum jail facility would be entirely different from that of a minimum security facility. .

"The impacts from a medium-maximum security jail would be negative with regards to each of the environmental issues discussed in this EIR. The greatest impact that would be anticipated as a result of this alternative would relate to public health and safety issues. In particular, the

surrounding residents would be subjected to greater risks associated with potential escapes. . . .

"There are no foreseen positive effects related to this alternative; therefore, it has been found to be the least likely to be chosen in the event the project is denied." See Exhibit "DD" at 6-35 to 6-36 (emphasis added).

DEIR 564 contains no explanation for why all of these carefully-researched conclusions should now be ignored.

Pages 207-208 – Release of Inmates at IRC: This alternative was adopted by the County at Theo Lacy as a mitigation measure, and presumably the County agreed to this because it believed – as did the City of Orange and as does the City of Lake Forest – that keeping released maximum security inmates off the streets is a good thing. To the extent that DEIR 564 relies upon studies of crime adjacent to Theo Lacy and the Santa Ana Jail to suggest that this measure will not be beneficial, these studies are inapposite, because neither of those facilities has immediately adjacent, high-quality residential housing. Rather, as DEIR 564 acknowledges, the IRC is located in a central urban area that already has high crime. *Id.* at 207. Because DEIR 564 acknowledges that increasing bus trips by only four to five bus trips per day would have only a "small effect" (*id.* at 208), there is no basis for rejection of this alternative as infeasible, and this alternative should be adopted. Accordingly, the DEIR should identify this alternative as environmentally superior to the proposed project, because it would result in fewer safety impacts, fewer socioeconomic impacts, etc.

Pages 208-209 – Alternative Sites: DEIR 564's analysis of alternative sites

within the County is cursory, biased, and replete with misrepresentations. Starting at the foundational level, DEIR 564 needs to identify a number of alternative sites, and then analyze each of those sites in sufficient detail to provide an evidentiary basis for determining whether the environmental consequences of locating the proposed project at those sites would be greater than or less than the Musick site. No such analysis is undertaken in DEIR 564. Instead, the document relies on demonstrably false assertions to excuse the DEIR's failure to do so.

The DEIR also attempts to excuse its failure to analyze alternative sites by incorporating "by reference" the entirety of EIR 464. As noted above, this incorporation by reference is obviously improper and entitled to no weight whatsoever, because the alternatives analysis in EIR 464 was specifically invalidated by the Los Angeles Superior Court. See Exhibit "HH" at 15-16. Given that the court found that the alternatives analysis in EIR 464 was too biased and stilted, even ten years ago, that analysis cannot be used to "bootstrap" the failure of DEIR 564 to analyze fully any alternative sites.

DEIR 564 sweeps under the rug in a single sentence its obligation to identify and analyze remote locations for jail expansion. Without any analysis or factual support whatsoever, DEIR 564 baldly asserts that remote locations for jail expansions "lead to sites which are more environmentally sensitive than the Musick Jail site." *Id.* at 209. Such unsubstantiated assertions do not rise to the level of environmental analysis, as required by CEQA. The County recognized as much when it prepared full-blown site selection EIRs for the near-term and long-term jails (albeit with an inadequate

alternatives analysis in EIR 464). Cursory dismissal of all rural sites by pointing simply to the fact that Caspar's Park may have some complications does not satisfy CEQA. With respect to Caspar's Park and all other remote locations, there needs to be a complete analysis of the feasibility of each site, including a determination of whether a jail could be located in areas that do not disturb wetlands or viewsheds, and do not implicate other environmental concerns. Even then, the County ultimately could decide that such environmental impacts could be mitigated to an acceptable level, particularly when compared to the significant environmental impacts of placing the proposed megajail only hundreds of feet from existing residential development in Lake Forest.

238 Similarly, the one-sentence dismissal of urban sites by stating that they are "quite small" and are unable to accommodate the necessary jail expansion is inadequate. This analysis presumably relies again upon EIR 464's assumption that six acres is necessary for a 1,500 inmate facility. As noted above, that assumption was specifically invalidated by the court. In order to reject any site on the basis of size, DEIR 564 needs to contain a specific analysis of how much space is necessary for the footprint of the proposed jail – particularly because Alternative 7.9 acknowledges that the jail could be built in highrise buildings. This footprint then needs to be compared to each available site considered.

Finally, DEIR 564's assertion that County property that has been used for collateral for its Certificates of Participation are not "available" to the County is false, and no sites can be eliminated on this basis. The lease agreement for those facilities specifically provides that the County shall have the right to make improvements to any of the lease facilities, as long as the improvements allow the lease sites to be used for

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purposes authorized by state law and the improvements are of use to the County. See Exhibit "LL" at 152. Accordingly, DEIR 564 must contain an examination of *all* County-owned properties, regardless of whether the properties have been used as collateral for the Certificates of Participation.

Pages 209-210 – Purchase of New Site and Sale of Musick Site: DEIR 564

falsely states that there is a legal impediment to selling the Musick site and using the funds obtained to purchase another site. The County's Master Lease under the Bankruptcy Recovery Plan specifically allows for such transactions. The County is allowed under that lease to remove leased facilities and substitute new lease facilities, as long as the rental value of the substituted properties equals or exceeds the value of the removed properties. See "LL" at 144-145. This could be accomplished either by (1) substituting County-owned properties that are not currently subject to the Master Lease or (2) selling the Musick facility, using those funds to purchase new property in a simultaneous escrow, and then substituting the new property as collateral for the Certificates of Participation. Many County-owned properties are available to be designated as substitute collateral, because not all County-owned properties are pledged as collateral. See Exhibit "H."

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Not only is this approach expressly permitted by the County's Master Lease, it is also the precise approach that has been suggested repeatedly in the County's own long-term jail planning. As recently as August 1995, in the CEQA Statement of Findings and Facts adopted by the Board of Supervisors for the Theo Lacy buildout and operation, the Board of Supervisors stated that "[I]n the past, the County has examined trading [the Musick] site for other sites which would be preferred for a jail." Exhibit "Z"

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at 6-7 (emphasis added). This proposal was reiterated in November 1994 by the Sheriff's Department in its El Toro MCAS Reuse Project Proposal, which suggested selling the Musick facility for an estimated \$24-31 million and using the proceeds from the sale for the construction of new jail facilities. See Exhibit "V." The October 1994 CAO response to the County's Grand Jury Report also indicated that the County would continue to consider the sale and exchange of County properties to obtain land or cash, and noted that the sale or exchange of the Musick site has been considered as a means of raising about \$30 million. See Exhibit "S" at 8. The concept of selling Musick and using the funds to purchase a new site has been supported by the County for many years. In the July 1989 Subsequent EIR for the Gypsum Canyon Jail site, the County adopted the option of selling the Musick site so that it could be developed in a manner compatible to the surrounding area, noting that "a likely land use replacement for the Musick site would be a business/industrial park." Exhibit "CC" at 4-83 to 4-84. See also Exhibit "AA" (September 1989 Theo Lacy Expansion Revised Subsequent EIR 499, affirming plan to transfer Musick facility to remote site). Going all the way back to August of 1987, when the Board of Supervisors selected the Gypsum Canyon site, the Board stated its commitment to relocating the Musick facility to the new remote site. Exhibit "Y" at 5.

In sum, the County has a longstanding history of planning to sell the Musick site so that it could be developed in a compatible fashion, and to use the funds generated to purchase a remote jail site where the facility would not be adjacent to incompatible commercial and residential development. DEIR 564 provides no reason for rejecting this alternative, which would be environmentally preferable and must be so designated.

Pages 210-211 – Expansion at Santa Ana Main Jail: As discussed above, this is a feasible alternative that is environmentally superior, and should be so designated in the DEIR. The only reason given in DEIR 564 for assuming that this alternative would not allow the needed sized jail is that the Katella-Douglass Jail configuration assumed 1,500 inmates on seven acres. However, the Orange County Superior Court expressly found this assumption to be inaccurate in its decision invalidating EIR 464. See Exhibit “HH” at 15-16. Based on the construction of the “Twin Towers” Jail in downtown Los Angeles, over 4,000 inmates easily could be accommodated on the existing County-owned property in Santa Ana, or even more, if a taller jail facility were built. The DEIR provides no support for a conclusion that the County’s jail needs cannot be met at a Santa Ana site, particularly if consideration is given to the size of facility that the County actually will have funds to build at any time in the foreseeable future.

There also is no evidentiary support for DEIR 564’s conclusion that expansion in Santa Ana should be rejected at the present time because of the immediate need for jail beds. Given the fiscal and timing issues discussed at the outset of this section, there is no reason to believe that any cells could be constructed at the Musick site sooner than a new jail in downtown Santa Ana.

At page 211, DEIR 564 rejects the alternative of contracting with the City of Santa Ana for holding pre-trial inmates at Santa Ana’s new facility in downtown Santa Ana on the grounds that Santa Ana’s contract with the federal government would be more lucrative. Again, there is no factual support for this analysis. In order to make such a determination, DEIR 564 must contain an analysis of what the per bed cost will be of the new proposed Musick megajail. Given the \$1,000,000,000+ pricetag of the

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proposed new facility, it is inconceivable that it would not be cheaper to contract with the City of Santa Ana, even if the County had to pay higher rates to Santa Ana than those paid by the federal government. Accordingly, absent additional fiscal analysis, there is no basis for rejecting the alternative of contracting with the City of Santa Ana for the housing of pre-trial inmates.

Pages 211-212 – Location of Facilities at El Toro MCAS: None of the

reasons stated in the DEIR for rejecting this alternative withstands scrutiny. First, the fact that MCAS El Toro may not be available until July 1999 is of no consequence, because there is no funding available for building the proposed Musick megajail, and DEIR 564 also acknowledges that the Musick construction will not occur until 2001, when the Alton Parkway extension is planned. See DEIR 564 at 42.

Likewise, the County cannot rely on the decision of its own Local Redevelopment Authority ("LRA") to not designate land for the jail in the Reuse Plan as a basis for not building at El Toro MCAS. Although a different County agency is involved, the County as a governmental entity has control over the decision as to what land uses will be recommended at the Base, the County has authority to commit use of land at the Base, and environmental impacts of siting the proposed jail facility on the Base must be explored fully so that the Board of Supervisors can make a decision regarding the relative environmental consequences of this alternative.

Parcels are available at El Toro MCAS that are of similar size to the 100-acre Musick site, and are much further from existing residential and commercial development, including the 90-acre "recreational" parcel at the Northwest corner of the Base. The El Toro LRA rejected this parcel for the siting of a jail because it was too

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241 small to accommodate the Sheriff's 250-acre request for a County jail site. See Exhibit "MM" at 2. Given that the Sheriff is now proposing the facility on only 100 acres, the 250-acre limitation is unnecessary. (The LRA also stated, mistakenly, that the 90-acre parcel was within the runway protection zone. As shown by the map attached to the LRA's letter, the 90-acre recreation parcel is outside the runway protection zone, although the adjacent Marshburn Retarding Basin is within the runway protection zone. See Exhibit "MM" at 4.) Accordingly, there is no reason why this 90-acre site – as well as any other available parcels at MCAS El Toro – should not be fully analyzed in DEIR 564.

Notably, selection of a site at El Toro would have the unique salutary benefit of allowing the County to pledge the MCAS El Toro site as collateral for Certificates of Participation, and then sell the Musick site to raise funds to build a facility at the MCAS El Toro site. Given DEIR 564's oft-expressed concern about the County's fiscal constraints, this important benefit should be disclosed and analyzed in DEIR 564.

242 Page 212 – Tustin MCAS Alternative: Although the County may not have "total control" over the disposition of land at Tustin MCAS, it has considerable influence and also has legal authority to acquire property there. Accordingly, this alternative must be analyzed in greater detail, including a full examination of the environmental consequences of locating the proposed facility at a site at Tustin MCAS.

243 Page 213 (First Full Paragraph): For the reasons stated above, DEIR 564's rejection of the alternative sites analyzed within the County did not pass muster under CEQA, because the DEIR repeatedly relies upon unsupported or demonstrably false assumptions as grounds for rejecting various alternatives. The suggestion of DEIR 564

at page 213 that the County may still pursue some of the various alternatives that have been rejected here because the County wishes to proceed on "multiple tracks" is clear evidence that the County is not approaching this task in the manner required by CEQA.

243 In order for the Board of Supervisors to make a fully informed decision, all possible alternatives – i.e., all "multiple tracks" – must be placed on the table at the same time and analyzed in a single EIR, so that the Board of Supervisors can have an opportunity to assess the comparative environmental benefits and consequences of each different alternative before making any decision.

244 **Pages 213-214 – Remote Sites:** In light of the recently-announced decision of Los Angeles County to lease some of its vacant jail space, DEIR 564 must reexamine the feasibility of this option. While the County has produced a letter indicating that no beds are available in San Diego County, see Exhibit "E," no similar documentation is provided with respect to Los Angeles County. To the contrary, evidence shows that beds are available for lease in Los Angeles County. See Exhibit "F." According to Exhibit "F," which was prepared by the Los Angeles County Sheriff, Los Angeles County tentatively plans to contract approximately 2,000 jail beds beginning in 1997, at a cost ranging from \$9.27 per day to \$16.88 per day. Presumably, these same beds could be made available to Orange County, perhaps at a slightly higher cost. Even a slightly increased contract rate would be far less than the \$1 billion for construction and \$230 million per year operating cost of the proposed Musick megajail.

245 **Pages 215-217 – Alternatives Rejected During DEIR Preparation:** These four pages at the conclusion of the alternatives section have been used as a "dumping ground" to bury some of the most promising site alternatives for the proposed megajail.

A summary rejection of these sites without any supporting analysis or documentation constitutes a clear violation of CEQA.

245 With respect to the Gypsum Canyon site, the first reason cited in DEIR 564 for rejecting this site is the "Opposition of City of Anaheim." By this measure, which is not a factor found in CEQA, the Musick site should be rejected in light of the opposition of the City of Lake Forrest and the City of Irvine. None of the other reasons cited in DEIR 564 for rejecting the Gypsum Canyon site withstands scrutiny either. To the extent that this alternative is being rejected because of the cost of the site, specific information concerning costs must be included in the DEIR, and balanced against specific information concerning the cost or value of other sites, including the Musick site. The Eastern Transportation Corridor routing and interchanges cannot be said to make it infeasible to build anywhere in Gypsum Canyon, particularly because the Gypsum Canyon EIR acknowledged the availability of various places within the Canyon itself for building a jail. Finally, the existence of planning approvals or a development agreement do not necessarily result in environmental consequences, but are simply financial issues that would need to be analyzed if fiscal considerations are being cited as the reason for rejecting this alternative.

In October 1994, a document prepared by the County CAO identified only two reasons for not pursuing the Gypsum Canyon site: cost and the opposition of Anaheim.

See Exhibit "S" at 3. From a CEQA perspective, neither factor is a grounds for rejecting this alternative, at least without providing comparable cost information concerning all other alternatives and preparing an analysis of the environmental consequences of building at each site. Notably, even when the Board of Supervisors

245 elected not to pursue the Gypsum Canyon site in October 1991 because of funding considerations, the Board left intact its findings that the Gypsum Canyon site was "the most responsible and expeditious method to provide additional minimum and maximum security capacity to alleviate existing and projected jail overcrowding." See Exhibit "Y" at 3 and 5. New, qualitative evidence must be presented in DEIR 564 before any basis can be established for overriding this carefully-documented finding by the Board of Supervisors.

Similarly, the reasons for rejecting the Bolsa Chica alternative are not sufficiently substantiated in DEIR 564. The site cannot be rejected for cost considerations without a comparative analysis of all other alternatives. The Coastal Commission and wetland issues must be explored and substantiated, including a site map that would establish that these issues exist.

The reasons for rejecting the Aliso/Wood Canyons Regional Park are not sufficiently substantiated. To the extent that this site is being rejected because of small site size, what assumptions are being made concerning necessary sizing? This information must be analyzed and disclosed.

Alternative No. 10 (establishing a jail at a vacant or blighted site in Santa Ana) states that this alternative was rejected because of an assumption that the "smallest jail of any size was 1,580 inmates on 7 acres [and] the key is to find a site at least that size." DEIR 564 at 217. As noted above, this sizing constraint was specifically overruled by the Orange County Superior Court in the EIR 464 litigation. In order to justify elimination of vacant parcels in Santa Ana, this parcel must be identified, and specific assumptions regarding necessary sizing must be disclosed in DEIR 564.

Additional Alternatives to be Examined: In addition to the defects noted

above, DEIR 564's analysis of alternatives is inadequate because there are additional available sites and issues that should have been considered, but were not.

First, on the issue of County-owned sites, the DEIR must analyze the following sites: Prima Deschecha Landfill and Bowerman Landfill. Although the entirety of these sites may not be available immediately, sufficient acreage could be available in the very near future, particularly given DEIR 564's acknowledgment that the new jail facilities will not be operational until 2001. Bowerman Landfill is scheduled to be closed in 1999, and easily is of sufficient acreage to accommodate the proposed facility. The Sheriff has already acknowledged that the joint operation of a landfill and correctional facility at the same site is feasible and should be considered by the County. See Exhibit "X" at 4.

Another alternative of unspecified nature is suggested by a statement in DEIR 564 at page 51. There, the DEIR states that if the entire project were built at one time, alternative housing would be found for existing inmates at the Musick facility. This text suggests that some other alternative housing apparently is available to the County. That alternative should be identified and analyzed. As noted in the discussion of Chapter 5 of the DEIR, DEIR 564 also needs to examine and disclose the environmental impacts of an alternative of constructing Alton Parkway only to a half-width. The DEIR suggests that only a half-width improvement may be necessary at page 57 and elsewhere. Construction of only a half-width of Alton Parkway would have very different environmental impacts in virtually all areas, including soils, hydrology, biological impacts, traffic and circulation, noise, etc. All of these impacts need to be carefully studied and disclosed in DEIR 564 as a separate alternative. Until such

analysis is conducted, it must be assumed that all of the impacts resulting from this alternative would be significant.

246 Finally, all of the analysis of alternative programs and sites contained in the DEIR 564 focuses exclusively on the issue of jail siting and operation. The proposed project also includes the Interim Care Facility ("ICF"), and CEQA requires independent analysis of alternative sitings for the ICF. Analysis of alternative sites for the ICF is critical, in light of the comments contained in the service letter (in Appendix "D" of EIR 564) from the Orange County Health Care Agency. That letter states that the Musick site is undesirable for the ICF, because the facility may be unable to obtain licensing "due to the site's approximation to an adult jail." The Health Care Agency's letter also explains that, "[f]rom the perspective of a Children's Mental Health treatment facility, this also is not the most ideal site, even if it can be licensed, being in the yard of a jail facility, unless measures are taken during the initial planning stages to ensure a secure and tranquil environment, secluded and apart from an adult jail atmosphere, with adequate recreation space for the children/adolescents." In addition to licensing issues, there are several other reasons why alternative sites for the ICF must be examined. First, State law requires the ICF to have outdoor recreation space (Exhibit "D") and the Musick site poses severe noise constraints for outdoor activities. Second, the County Department of Health seeks to expand the ICF to have at least 40 beds (see Exhibit "QQ" at 1), and DEIR 564 does not examine this issue. Third, for operational reasons, it is important that the ICF be located away from heavily-travelled streets (see Exhibit "QQ" at 5), and the site suggested in DEIR 564 does not accomplish this goal. Finally, it is important to look at alternative sites for the ICF because the Health Care Agency

letter states that the "new facility must be completed and occupied by ICF *prior* to demolition." (Appendix "D" of EIR 564) (Emphasis in original). As noted above, the Sheriff has stated his intention to use any new Board of Correction funds to complete the Theo Lacy expansion, which will require demolition of the existing ICF. DEIR 564 states that "it is not known precisely when and where [ICF] will be relocated." DEIR 564 at 51. Under these circumstances, it is critical to look at alternative sites for the ICF. Standing alone, DEIR 564's failure to consider alternative sites for the ICF invalidates the entire document and requires recirculation of a revised and complete DEIR.

246 After a complete and comprehensive alternatives analysis is conducted, as requested by these Comments, the DEIR should then contain a clear statement listing the environmentally superior alternative in both the Summary and Alternatives Chapters of the document. At a minimum, based upon the current analysis in the DEIR, the following alternatives should be identified as environmentally superior to the proposed project: reduce size of Musick Project to serve South County residents; Grand Jury Report alternative; limited expansion of Musick Jail alternative; limit on inmate classifications alternative; release of inmates at IRC alternative; management systems alternative; and release of inmates at IRC alternative. Absent further analysis, the DEIR must also identify the following as environmentally superior alternatives, because the level of analysis in the DEIR does not support a contrary conclusion: undertake a long-term jail study alternative and private jail alternative. In other words, virtually all of the alternatives examined in the DEIR are environmentally superior to the proposed project.

Chapter 8 - Related Projects and Cumulative Impacts

Page 218. The DEIR's *one-page* cumulative impacts discussion fails to meet any of CEQA's requirements for cumulative impacts analysis. In accordance with Section 15130 of the CEQA Guidelines, the DEIR must provide either:

- A list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including those projects outside the control of the agency, or
- A summary of projections contained in an adopted general plan or related planning document which is designed to evaluate regional or area-wide conditions. Any such planning document shall be referenced and made available to the public at a location specified by the Lead Agency.
- A summary of the expected environmental effects to be produced by those projects with *specific reference to additional information* stating where that information is available, and
- A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable options for mitigating or avoiding any significant cumulative effects of a proposed project.

First, the DEIR provides neither a list of summary projects nor a summary of projections. One or the other, or both, should be provided in this chapter. The failure to include such a list is one of the specific reasons that EIR 464 was invalidated. Exhibit "HH" at 12.

As to the identification and analysis of expected environmental effects, the DEIR apparently suggests that the reader can glean such information from the data in the body

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of the DEIR. Even assuming this is possible, it is not the reader's job to construct a cumulative impacts analysis. CEQA unequivocally requires the *County* to provide the reader with a complete and discrete cumulative impacts analysis.

247 The information provided in the DEIR on which the reader is supposed to base his or her cumulative impacts analysis, moreover, is itself invalid. CEQA requires the impacts of "reasonably foreseeable probable future projects," including unapproved projects subject to environmental review, to be included in the cumulative impacts analysis. CEQA Guidelines, 14 Cal.Code Regs Sections 15355, 15130. The analyses in the DEIR unreasonably assume selection of the No-Project Alternative for El Toro, under which 1994 levels of use will continue. Conclusions drawn on the basis of the no-use alternative clearly understate future cumulative impacts; the DEIR itself acknowledges that under any of the reasonably foreseeable reuse alternatives, future trip generation from the El Toro base will be significantly higher than under current military use. See DEIR Appendix I, I-9. The DEIR thus improperly considers project traffic in the context of existing traffic levels in the area, rather than analyzing reasonably foreseeable future levels. The DEIR also fails to consider the City of Irvine's plans for Irvine Planning Area 30, a 440-acre site within the El Toro Reuse Area for which Irvine has issued a DEIR. The traffic, noise and air quality analyses therefore must be redone using reasonably foreseeable future use of El Toro and Irvine Planning Area 30. Again, identification of only "committed" future projects – and not all "reasonably foreseeable" future projects – is one of the specific errors that led to invalidation of EIR 464 by the Superior Court. Exhibit "HH" at 12-13.

The DEIR also relies on the El Toro Reuse EIR to support its conclusion that the project will not have any traffic, noise or air quality cumulative impacts. That document

provides no support for the County's conclusions. Not only is the EIR not yet certified, but the public comment period has not even ended. As the City will document in its comments on the Reuse EIR, the analysis of cumulative impacts in the Reuse EIR is itself deficient. The City hereby incorporates by reference its comments on the Draft Reuse EIR, which will be filed by the City next week. Incredibly, the County's attempt to rely on a not-yet-certified EIR to bolster an inadequate cumulative impacts analysis is yet another vice identified by the Superior Court in invalidating EIR 464 (Exhibit "HH" at 13), but the County nevertheless has done it again.

Perhaps most remarkable is the DEIR's argument that the air, traffic, noise and agricultural impacts of the megajail are not cumulatively significant because they are small in comparison to the impacts of the El Toro Reuse plan. This argument proves only that the DEIR drafters completely misapprehend the meaning of "cumulative." The Guidelines explain that:

"The cumulative impact from several projects is the change in the environment which results from the *incremental* impact of the project when added to other closely related past, present, and reasonably foreseeable probably future projects. Cumulative impacts can result from *individually minor* but collectively significant projects taking place over a period of time." (CEQA Guidelines, 14 Cal.Code Regs Section 15355 (b) (emphases added).

The DEIR discussion itself in fact supports a finding of significant cumulative agricultural impacts. It acknowledges that there will be a net cumulative loss of 21 acres for the Musick site, and that the Reuse Plan proposes to develop much of the currently farmed

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land on the base. The "incremental" impact of the Musick jail loss, when added to the Reuse Plan loss, clearly results in a significant cumulative loss of agricultural land.

247 The DEIR must be redrafted to provide a cumulative impacts discussion for each impact, including calculation of potential cumulative impacts, analysis of such impacts, cumulative impacts mitigation where required, and documentation for the determination that impacts are not significant. This significant new information must be recirculated for public comment.

V. RECIRCULATION OF DEIR 564 IS REQUIRED

The County cannot possibly rectify the DEIR's critical deficiencies without adding significant new information throughout the document. The County must therefore recirculate the entire revised DEIR for public comment prior to certification. CEQA Guidelines, Cal.Code Regs. Section 15088.5.

Section 15008.5 provides that information is significant such that recirculation is required where

"the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement."

Under this same Guideline, recirculation is required for "significant new information," which includes, for example, a disclosure showing that (1) a new significant environmental impact would result from the project or new mitigation measure; (2) there will be a substantial increase in the severity of an environmental impact absent the adoption of mitigation measures reducing the impact to an insignificant level; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents decline to adopt it; or (4) the draft EIR was so fundamentally inadequate and conclusory in nature as to preclude meaningful review and comment.

As the City's Comments document, the County must revise the DEIR by adding precisely the kinds of "significant new information" detailed in section 15088.5. To offer

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248 but a few examples: First, the County must revise the DEIR's impacts analysis to reflect crowded conditions at the jail. This revised analysis must disclose a substantial increase in the severity of traffic, air and other impacts recognized in the current DEIR. Second, the DEIR contains no biological resources study, and incorrectly concludes that there are no significant biological resources impacts. The initial DEIR discussion was so inadequate as to preclude meaningful comment and the revised DEIR must acknowledge significant new impacts. Third, the required inclusion of an El Toro reuse alternative other than the No Project Alternative in the traffic, noise and air pollution analyses will result in the disclosure of substantially greater cumulative impacts than acknowledged in the current DEIR. Fourth, the cumulative impacts discussion is so inadequate as to preclude meaningful comment. Fifth, the entirety of the DEIR's alternatives analysis is premised upon unsubstantiated and demonstrably erroneous assertions that are used as excuses to fail to conduct any meaningful analysis of various project alternatives. A comprehensive alternatives analysis must be performed.

In short, CEQA clearly requires that the County significantly revise the DEIR in light of its rampant deficiencies, and that the public be provided the opportunity to comment on the revised document.

VI. THE PROPOSED PROJECT MUST BE REFERRED TO THE ORANGE COUNTY

AIRPORT LAND USE COMMISSION

In addition to the many violations of CEQA outlined above, the County's attempted approval of the proposed project also violates the California Aeronautics Act. DEIR 564 does not indicate that the proposed project has been referred to the Orange County Airport Land Use Commission ("ALUC"), and the City understands that no such referral has been made. In fact, a referral to the ALUC is required and the County Board of Supervisors cannot take any action on the proposed project until after the ALUC has acted on the referral. In this instance, a referral to the ALUC is required for two reasons.

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First, a referral to the ALUC is required because the proposed project is not consistent with the existing zoning of the project site, and thus the Board of Supervisors must either amend the existing zoning or take an action to exempt the project from the existing zoning. Either action would have the effect of a change in the existing zoning, and such changes must be referred to the ALUC for consistency determinations pursuant to Cal. Pub. Util. Code Section 21676(b).

The proposed project is inconsistent with existing zoning for the site, because the site presently is zoned as an A-1 "general agricultural" district. See DEIR 564 at 109. According to the DEIR, an A-1 district can include a variety of conditional uses, including public facilities, if the uses are determined by the Planning Commission to be consistent with the purpose and intent of the A-1 district. While the existing Musick Honor Camp arguably is consistent with an agricultural district, given that much of the site is dedicated to agricultural uses and many of the inmates are involved in farming,

the same will not be true for the new facility. Only a small portion of the site will remain for agricultural uses, and only a small number of the inmates at the facility will be eligible to work on the farm. See DEIR 564 at 41. Accordingly, there is no support for a finding by the Planning Commission that the new facility is consistent with general agricultural uses, and a zoning change or exemption is required.

249 Second, referral to the ALUC is required because no compatibility plan has been developed by the ALUC for commercial airport reuse of the El Toro MCAS. Accordingly, there is no current compatibility plan existing for the site and, under that situation, "all actions, regulations, and permits within the vicinity of the public airport" must be submitted to the ALUC for review and approval. Cal. Pub. Util. Code Section 21675.1(b) (emphasis added).

For both of these reasons, the proposed project must be referred to the Orange County Airport Land Use Commission before the Board of Supervisors can take any action on DEIR 564.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action. My business address is: 1950 So. Santa Fe Avenue, Ste. 101, Los Angeles, California 90021.

On October 7, 1996, I served the within entitled document described as **CITY OF LAKE FOREST'S COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT 564** on the interested parties in said action by hand delivering a true copy addressed as follows:

Paul Lanning
Project Manager
County of Orange
Environmental & Project Planning
300 North Flower Street, Room 321
Santa Ana, California 92702

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed on October 7, 1996, at Los Angeles, California.

for SUPER RUSH MESSENGER

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**EXHIBITS TO
CITY OF LAKE FOREST
COMMENTS ON COUNTY OF ORANGE
DRAFT ENVIRONMENTAL IMPACT REPORT 564**

October 7, 1996

10/16/96

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INDEX TO EXHIBITS TO CITY OF LAKE FOREST COMMENTS ON DEIR 564

TAB NO.	DESCRIPTION
A	3 Page document titled "Musick Facility Expansion" - 6/25/96
B	2/18/86 memo from Larry Seeman Associates to Jail Site Task Force Subcommittee
C	7/30/96 memo from Undersheriff Ramos to Sperber at Saddleback Valley Voice re Musick Facility Expansion
D	8/26/91 Manual Letter No. CCL-91-41 titled "Group Homes -- Regulations" from California - SDSS - Manual - CCL
E	8/16/96 letter from Kolender, San Diego County Sheriff, to Gates, Orange County Sheriff re jail beds
F	Fiscal Year 1996-97 Programs -- Los Angeles County jail capacities
G	8/10/96 memo from Culbertson to Turner re Musick Exhibits
H	6/24/96 Orange County 1996 COPs Asset List -- Final Pledged Assets List
I	8/8/96 memo from Culbertson to Maturkanich re Request (re booking statistics impressions)
J	4/23/96 Agenda and Task/Responsibility List -- Initiation and Coordination Meeting -- Musick Jail Facility
K	4/23/96 fax transmittal from Culbertson to Gates and Ramos re Musick -- Meeting with CEO Jan Mittermeier
L	8/7/96 fax transmittal from Barnes to Maturkanich re Grids for Lake Forest and Irvine and Musick Facility - Inmate Releases 1995
M	8/9/96 fax note from Maturkanich to Culbertson returning fax memo and drawing to Culbertson re Musick -- Walls and Wire Fences
N	8/2/96 fax memo from Maturkanich to Culbertson transmitting 10/1/91 "Minute Order" (not a resolution)
O	8/21/96 fax memo from Culbertson to Gates re "Jails -- in 1896" referring to a quotation from an unidentified article or book.

INDEX TO EXHIBITS TO CITY OF LAKE FOREST COMMENTS ON DEIR 564

TAB NO.	DESCRIPTION
P	1/28/92 Agenda Item Transmittal Form and Excerpts from a 1/16/92 memo from the CAO to Board of Supervisors re Report on Short-Term Jail Solutions
Q	5/2/96 fax transmittal from Maturkanich to Culbertson of Orange County Sheriff's Notice of Interest of Buildings and Property at Marine Corps Air Station, El Toro
R	10/3/96 White Study re DEIR 564 and Resumes
S	10/26/94 memo from Schmidl, Orange Co. CAO to Smith, Presiding Judge, Orange Co. Superior Ct. re response of Orange Co. Supervisors to the Grand Jury report titled "Orange County Jails – A Chronic Concern"
T	11/15/94 News Release re Grand Jury Report "New Maximum/Minimum Security Jail Sites for Orange County"
U	12/21/94 memo from Gates to Schmidl re response to Grand Jury Report "New Maximum/Minimum Security Jail Sites for Orange County"
V	11/17/94 El Toro MCAS Re-use Project – Project Analysis Form for Sheriff, Contacts: Heacock and Maturkanich for Relocating Musick Facility (Existing)
W	11/17/94 El Toro MCAS Re-use Project – Project Analysis Form for Sheriff, Contacts: Heacock and Maturkanich for Long-Term Maximum Security Jail (New)
X	9/12/90 letter from Gates to Schneider re State of the Jail System Report – Number 8
Y	10/22/91 Minutes Resolution No. 91-1249 – Rescission of a portion of Resolution No. 87-1131, Designating Gypsum Canyon as a Jail Site and supporting documentation
Z	CEQA Statement of Findings and Facts excerpt from the 8/95 Final EIR 558 Location of Near-Term Jail Facility: Theo Lacy Branch Jail Buildout and Operation, Volume I

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TAB NO.	DESCRIPTION
AA	James A. Musick Complex Expansion excerpt from the 9/89 Revised Subsequent EIR 499 re Theo Lacy Branch Jail Expansion/County Communications Center Relocation
BB	Volume IV Appendix M to the 5/87 Long-Term Jail — Orange County Jail Site Selection Study Phase II, Draft Environmental Impact Report
CC	James A. Musick Facility - Secondary Impacts excerpts from the 7/89 Gypsum Canyon Jail Subsequent EIR 483
DD	Medium-Maximum Security Facility excerpt from the 5/86 James A. Musick Facility Master Plan: Draft Environmental Impact Report 447
EE	8/29/96 letter from Dunek to Mathews re request for extension of review period for responding to DEIR 564
FF	8/30/96 letter from Mathews to Dunek re request of City of Lake Forest for extension of review period for responding to DEIR 564
GG	9/13/96 letter from Caldwell to Stanton re Request for Documents Under Public Records Act and 9/27/96 letter from Caldwell to Meade re same
HH	6/2/88 Memorandum of Tentative Decision in Case No. 50-96-78 signed by Superior Court Judge Claude M. Owens
II	AB No 3229
JJ	Proposition 205
KK	California Adult Institutions excerpt from the American Correctional Association 1996 Directory
LL	Master Lease Dated as of June 1, 1996 excerpt from the 5/22/96 Submission of Transaction Documents Relating to Certificates of Participation, US Bankruptcy Court, Case No. SA94-22272-JR
MM	8/16/96 memo from Mathews and Schooley to Gates re LRA Staff Recommendations on Sheriff-Coroner Request for a Jail Site at MCAS El Toro

**INDEX TO EXHIBITS TO CITY OF LAKE FOREST
COMMENTS ON DEIR 564**

TAB NO.	DESCRIPTION
NN	8/14/96 memo from Sibley to Distribution (Undefined) re Musick Branch Jail Expansion and Operation Screencheck EIR 564
OO	9/21/96 letter from Watts to Pulone re Musick Jail impact on property values
PP	8/19/96 memo from Orange County Manager, Environmental Resources to Lanning, Planner IV re Revised - Review of Phase I Environmental Site Assessment for James Musick Facility, 13592 Musick Drive, Irvine
QQ	3/14/96 letter from Leaman, Orange County Social Services Agency to Maldonado, EMA/Advance Planning Division re MCAS El Toro Notice of Interest: Request for Additional Information Regarding Traffic Flow in and out of the Proposed County of Orange Social Services Agency Transitional Shelter Care/Intermediate Care Facility

MUSICK FACILITY EXPANSION

June 25, 1996

COMPLEX 1 - INTAKE/RELEASE/ADMIN/MEDICAL

170 FEET

	<u>RATED</u>	<u>CROWDED</u>	<u>WORST CASE</u>
Module 1	192 MEDICAL	192 MEDICAL	192 MEDICAL
Module 2	96 MEDICAL	96 MEDICAL	96 MEDICAL
Module 3	96 MEDICAL	96 MEDICAL	96 MEDICAL
Module 4	96 MEDICAL	96 MEDICAL	96 MEDICAL
Module 5	96 male	192 male	192 male
Module 6	96 male	192 male	192 male
Module 7	96 male	192 male	192 male
Module 8	96 FEMALE	192 FEMALE	192 FEMALE

384 RATED
(96 Female/288 Male)
+480 MEDICAL
864 TOTAL

768 CROWDED
(192 Female/576 Male)
+480 MEDICAL
1248 TOTAL

768 WORST CASE
(192 Female/578 Male)
+480 MEDICAL
1248 TOTAL

* Medical not rated

COMPLEX 2 - HOUSING

174 FEET

	<u>RATED</u>	<u>CROWDED</u>	<u>WORST CASE</u>
Module 9	240 FEMALE	240 FEMALE	288 FEMALE
Module 10	240 FEMALE	240 FEMALE	288 FEMALE
Module 11	240 FEMALE	240 FEMALE	288 FEMALE
Module 12	240 FEMALE	240 FEMALE	288 FEMALE
Module 13	240 FEMALE	240 FEMALE	288 FEMALE
Module 14	240 male	240 male	288 male
Module 15	240 male	240 male	288 male
Module 16	240 male	240 male	288 male
Module 17	240 male	240 male	288 male
Module 18	240 male	240 male	288 male
Module 19	240 male	240 male	288 male
Module 20	240 male	240 male	288 male

2880 RATED
(1200 Female / 1680 Male)

2880 CROWDED
(1200 Female/1680 Male)

3456 WORST CASE
(1440 Female/2016 Male)

EXHIBIT A

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MUSICK FACILITY EXPANSION (CONTINUED - PAGE 2)

COMPLEX 3 - HOUSING

174 FEET

	<u>RATED</u>	<u>CROWDED</u>	<u>WORST CASE</u>
Module 21	240 male	240 male	288 male
Module 22	240 male	240 male	288 male
Module 23	240 male	240 male	288 male
Module 24	240 male	240 male	288 male
Module 25	240 male	240 male	288 male
Module 26	240 male	240 male	288 male
Module 27	240 male	240 male	288 male
Module 28	240 male	240 male	288 male
Module 29	240 male	240 male	288 male
Module 30	240 male	240 male	288 male
Module 31	240 male	240 male	288 male
Module 32	240 male	240 male	288 male
Module 33	240 male	240 male	288 male
Module 34	240 male	240 male	288 male
Module 35	240 male	240 male	288 male
Module 36	240 male	240 male	288 male
	3840 RATED	3840 CROWDED	4608 WORST CASE
	(Male)	(Male)	(Male)

<u>TOTALS</u>	<u>RATED</u>	<u>CROWDED</u>	<u>WORST CASE</u>
	7104	7488	8832
(Medical not rated + 480 Medical)		+ 480 Medical	+ 480 Medical
Actual	7584	7968	9312

(1296 Female/5808 Male) (1392 Female/6096 Male) (1632 Female/7200 Male)
(Medical cells not included in male/female breakdown)

Notes:

Complex 1 is all cells. Cells are all single bunked under the rated capacity scenario. They are all double bunked, under the crowded and worst case capacity scenarios. Medical cells would all be single cells with the exception of one module which would be double bunked.

Complexes 2 and 3 are all dorms of varying sizes. Under the crowded capacity scenario they remain at their rated capacity numbers. For the worst case scenario an additional 4 bunks per sector could be added for an additional 48 per module.

The footprint for building 1 is slightly smaller than Complexes 2 and 3 because it is comprised of cells and holds slightly fewer inmates.

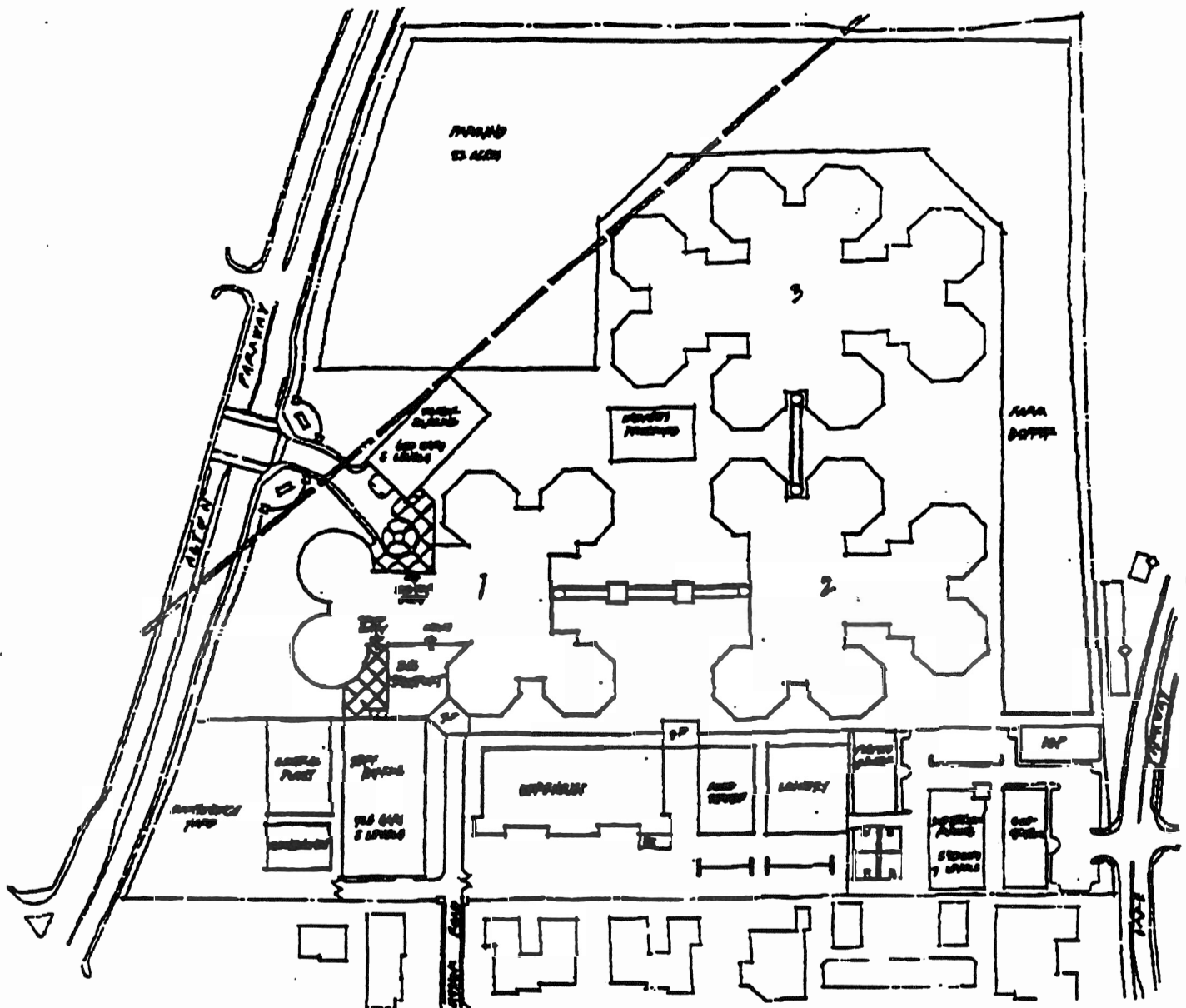
FROM: EMA HEP DIRECTOR

TO:

714 581 3599

JUN 21, 1996

9:03AM P.02



JAMES A. MUSICK EXPANSION

COUNTY OF ORANGE

6/21/96



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DRAFT



MEMORANDUM

To: Jail Site Task Force Subcommittee
From: LSA/Larry Seeman Associates
Subject: JAIL FACILITY DESIGN
ASSUMPTIONS/SPACIAL REQUIREMENTS
Date: February 18, 1986

Prior to selection of jail sites for review, a number of assumptions were established as required to define the site size. Included in these assumptions were the types of facility uses, as well as accessory uses, required to functionally operate a County facility. In summary, these were: an intake and release facility; housing for minimum, medium and maximum security inmates; jail maintenance/operations facilities; recreation areas; jail industries; and security zones. Once identified, the amount of area devoted to the uses was determined based on the service needs of a 6,000 bed detention facility. It should be noted that some uses might be considered permissive rather than mandatory for minimum jail operations. In particular, employment in jail industries is not essential to facility detention operations; if eliminated total site size could be reduced. However, jail industries and other similar uses must be considered as appropriate and could be incorporated as a successful means to make use of productive manpower, while keeping inmate idle time to a minimum.

Several reference materials and sources were consulted in establishing facility uses and spatial requirements. In particular, similar detention facilities from throughout the United States were reviewed, as were several books, articles and legal regulations. Inasmuch as the proposed facility will accommodate 6,000 inmates, comparable existing jail facilities were scarce. Most facilities have fewer than 2,000 inmates, with a capacity of 500 being more common. Consequently, several design assumptions have been pro-rated upward to accommodate 6,000 inmates.

Because of this, some uses which do not necessarily require proportional size increases to adequately serve 6,000 inmates could be reduced in size and still maintain adequate services. Examples include the central food preparation complex and shop maintenance facilities. Reduction in the size of these

EXHIBIT B

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facilities, however, would not dramatically affect overall site spacial requirements.

Several design assumptions were established to define the overall parameters for site planning and facilities sizing. These assumptions are attached below in the following numbered statements. It should be noted that these assumptions are intended to establish site size for the purpose of determining acceptable candidate sites. During subsequent planning and engineering analysis (Phase Two), more precise layout of jail facilities will occur for each site. Table A illustrates the typical residential building uses including the number of beds and types of facilities proposed for each residential building category.

1. The new jail will have an Intake and Release Center facility similar to the IRC (Intake and Release Center) under construction in Santa Ana. This facility would provide approximately 384 rated beds in individual cells, in addition to holding and observation cells. Also, general administration and personal inmate storage would be contained on the first floor.
2. A special intake processing center would initially be constructed to administer those inmates transferred from other jail facilities. These inmates would have been previously processed, thus not needing the full complement of intake and release procedures. Also contained in this facility would be a central food preparation center, goods storage, a central infirmary or medical unit and 384 rated beds.
3. A total of 4,690 rated and 380 non-rated medium/maximum security beds are proposed. The 384 beds contained in the IRC facility are included in the total rated beds number.
4. A total of 1,310 rated and 106 non-rated minimum security beds are proposed.
5. A total of 1,500 parking spaces will be required (assumes one space per four inmates).
6. A typical housing building consists of four interconnected pods similar to the downtown Santa Ana IRC building. Each pod is constructed with two stories, with each story containing a mezzanine. The first floor contains 48 beds in each of three pods and ten non-rated beds, with the fourth pod devoted to food serving, storage, clothing exchange and a staff area. The first floor mezzanine contains 48 beds in each of three

TABLE A
TYPICAL BUILDING USE BY FLOOR

IRC BUILDING	BUILDING MODULES				
	A POD	B POD	C POD	D POD	COMMON AREA
First Floor	I & R	I & R	Admin.	Pers. Storage	-
First Floor Mezzanine	-	-	-	-	-
Second Floor	48	48	48	48	27 NR
Second Floor Mezzanine	48	48	48	48	-
Subtotal	96	96	96	96	27 NR
Total Building: 384 rated beds; 27 non-rated beds					

SPECIAL INTAKE CENTER					
	Food Prep	Infirmary	Storage	Intake*	Infirmary
First Floor	-	-	-	-	-
First Floor Mezzanine	48	48	48	48	-
Second Floor	48	48	48	48	-
Second Floor Mezzanine	96	96	96	96	-
Subtotal	96	96	96	96	-
Total Building: 384 rated beds					

HOUSING BUILDING (Med/Max. Security)					
	F, S, CE, SA	Infirmary	Storage	Intake*	Infirmary
First Floor	48	-	48	48	10 NR
First Floor Mezzanine	48	48	48	48	-
Second Floor	48	-	48	48	26 NR
Second Floor Mezzanine	48	48	48	48	-
Subtotal	192	96	192	192	36 NR
Total Building: 672 rated beds; 36 non-rated beds					

HOUSING BUILDING (Min. Security)					
	F, S, CE, SA	Infirmary	Storage	Intake*	Infirmary
First Floor	48	-	48	48	10 NR
First Floor Mezzanine	48	48	48	48	-
Second Floor	48	-	48	48	26 NR
Second Floor Mezzanine	48	48	48	48	-
Subtotal	192	96	192	192	36 NR
Total Building: 672 rated beds; 36 non-rated beds					

I & R - Intake and Release
 * - Intake from other jail facilities
 F - Food Service
 S - Storage
 CE - Clothing Exchange

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26 non-rated beds. A total of 672 rated beds and 36 non-rated beds would comprise the typical housing building. Day rooms, indoor recreation areas, outdoor recreation areas, multipurpose rooms and other required facilities would also be contained on each floor as appropriate to space requirements. Cells can be provided as individual or multiple without building footprint modification. Building design could facilitate both minimum and medium/ maximum security inmates in addition to occupancy by both men and women.

7. Building design is based on the assumption that each cell or individual space requirement has been established at a minimum of 80 square feet.
8. A maximum height of two stories per building (42 feet) is desired to minimize aesthetic conflict with adjacent communities.
9. A separate, non-secure warehouse building for storage of up to two months supply of goods and materials is proposed for the jail facility.
10. A second warehouse facility is also proposed but will only serve jail industries.
11. Buildings for jail industries are provided adjacent to the minimum security buildings for shortened access.
12. Shop maintenance facilities, including garage repair shop, welding shop, machine shop and other repair services, would be located near the minimum security buildings. It is envisioned that minimum security inmates will provide the work force required to maintain on-site jail facilities.
13. A central plant, located in a remote corner of the jail facility is proposed for heating/cooling and other power requirements.
14. For the minimum security inmates, a central dining area and an auditorium are proposed.
15. Vocational/Educational programming is provided for each inmate security category. The concept proposes sharing a single Vocational/Education building with two main housing buildings. A total of five Vocational/Educational buildings will serve the ten main housing buildings. Vocational/Educational programming could consist of carpentry, plumbing, welding, arts/crafts, painting, electrical, chapel, law/general library, classrooms, video/media rooms, etc.